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# ROYAL COMMISSION

ON

## TRANSPORTATION

### HEARINGS

HELD AT

OTTAWA

VOLUME No.:

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MEMORANDUM OF ERRATA

Page 1443 - Line 30:

Delete "in"; insert "under".

Page 1445 - Line 12:

Before on grain insert "in rates".

Page 1452 - Line 5:

Before statutory insert "the".

Page 1458 - Line 18:

Delete "1,326"; insert "2,600".

Page 1462 - Line 21:

Delete "have"; insert "had".

Page 1476 - Line 24:

Insert "Class and" before commodity.

Page 1476 - Line 26:

Delete "board"; insert "Board's".

Page 1509 - Line 2:

Delete word "desiring"; insert "desired".

Page 1533 - Line 29:

Delete word "and"; insert "of".

Page 1552 - Line 28:

Delete "on"; insert "of".

Page 1553 - Line 3:

Delete "regions"; insert "origins".

Page 1553 - Line 11:

Delete "in"; insert "to".

Page 1556 - Line 1:

Delete "added".

Page 1560 - Line 6:

Delete "weights"; insert "rates".

Page 1585 - Line 12:

Delete "It did extend"; insert "To that extent".







Page 1619 - Line 2:

Delete "and".

Page 1621 - Line 27:

Delete "in"; insert "for".

Page 1636 - Line 6:

Insert before "terminated" - "not".

Page 1645 - Line 14:

Delete "has"; insert "had".

Page 1657 - Line 26:

Insert after the word as "to".

Page 1671 - Line 9:

Delete "want to"; insert "cannot".

Page 1674 - Line 25:

Delete "persuasive"; insert "pervasive".

Page 1680 - Line 7:

Delete "and"; insert "that".

Page 1686 - Line 11:

Delete "because I explained it"; insert "the  
Statutory grain rates".

Page 1699 - Line 21:

Delete "increased"; insert "agreed".

Page 1702 - Line 15:

Insert after evidence "we said".

in effect.

1442

EXHIBIT NO. 50: Canadian Pacific Railway:  
Comparison of rates on grain  
and grain products, to Fort  
William, Ont., from stations  
on branch lines with rates  
from equidistant points on  
the main line, in effect  
July 6, 1922.

1442

EXHIBIT NO. 51: Canadian Pacific Railway:  
Statement of rates on  
grain to the lakehead at  
dates shown.

1442







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TORONTO, ONTARIO

## ROYAL COMMISSION ON TRANSPORTATION

Proceedings of hearings held in  
the Court Room, Board of Transport  
Commissioners Offices, Ottawa, Ontario,  
on the 5th day of December, 1959.

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### COMMISSION

|                            |                 |
|----------------------------|-----------------|
| Mr. M. A. MacPherson, Q.C. | Acting Chairman |
| Mr. H. Anscomb             | Member          |
| Mr. A. H. Balch            | Member          |
| Mr. R. Gobeil              | Member          |
| Mr. H. Mann                | Member          |
| Mr. A. Platt               | Member          |

### COMMISSION COUNSEL

Mr. A. G. Cooper, Q.C.  
Mr. G. S. Cumming

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|                    |                     |
|--------------------|---------------------|
| Mr. F. W. Anderson | Secretary           |
| Major N. Lafrance  | Assistant Secretary |

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In the absence of The Honourable Mr.  
C. P. McTague, Q.C., Mr. M. A.  
MacPherson, Q. C., presided.





Ottawa, Ontario,  
Saturday,  
December 5, 1959

- On commencing at 9.00 a.m.

THE ACTING CHAIRMAN: All right, gentlemen.

DONALD GORDON, Recalled.

MR. McDONALD: Mr. Gordon, at the adjournment last night you were just about to reply to a question by Commissioner Mann. Will you proceed.

MR. GORDON: Mr. Chairman, this statement is in reply to Mr. Commissioner Mann's question at the close of yesterday's session.

The Canadian Pacific Railway in a separate submission, which has been formally filed with the Commission, recommends that income tax relief be the method employed to enable the railways to secure revenues based on just and reasonable rates for the movement of grain and grain products.

I realize that the Canadian Pacific has not had an opportunity to produce evidence in support of its position but with your permission, Mr. Chairman, and if the C.P.R. has no objections, I should like to make some comments on this income tax proposal.

To facilitate an understanding of the C.P.R.'s position and to make it perhaps easier to follow the observations which I shall make, we have prepared a table which shows how the tax relief would be computed. The table uses estimated amounts:







|   | <u>C. P. R.</u> | <u>C. N. R.</u> |
|---|-----------------|-----------------|
| Gross revenues which would have been received if traffic moved at an increase of 100 per cent over the statutory level - or at a just and reasonable level determined by B.T.C. | \$70,000,000    | \$56,000,000    |
| <u>Less</u>   |                 |                 |
| Gross revenues actually received at the statutory level   | 35,000,000      | 28,000,000      |
|   | <hr/>           | <hr/>           |
|   | 35,000,000      | 28,000,000      |
| <u>Less</u>   |                 |                 |
| Amount determined by applying applicable rate of income tax for the year - say 50 per cent  | 17,500,000      | 14,000,000      |
|   | <hr/>           | <hr/>           |
| Amount of deduction from Income tax   | \$17,500,000    | \$14,000,000    |

This calculation would be subject to annual adjustment. The proposal also makes provision for the following:

1. If the deduction above exceeds the total tax for the year, the excess may be applied back one year and forward five years.
2. Companies not having taxable income in any year may elect to receive the amount of permissible deduction by way of special credit or cash(\$14 million for C.N.R.).

In its submission the C.P.R. dealt with four methods of possible solution and reached the conclusion that the best way to meet the situation is to use the Income Tax Act as an instrument of relief.







The other three methods are based on the periodic determination by the Board of Transport Commissioners of a just and reasonable amount to be paid to the railways for the movement of the commodities in question. A payment would then be made by the Government or Government Agency to the railways for the difference between the just and reasonable amount and the statutory rates actually received from the shipper. These three solutions are actually a variation of the same plan and are similar to the Canadian National's proposal, which is outlined in its separate submission.

The Canadian National opposes the Canadian Pacific's method of solution. It is our considered view that the use of the Income Tax Act as an instrument of relief confuses the Federal tax policy with assistance given to a particular industry. It obscures both the amount and purpose of the subsidy. I would direct your attention to paragraph 72 of the Canadian Pacific submission which makes the statement that "the proposed assistance to Western agriculture is not and must not appear to be a subsidy to the railways". I agree entirely with this statement. Stated another way, it simply means that the railways should receive compensation for work done involved in the carriage of grain and grain products. The question of whether a company pays or does not pay income tax has no relationship to the amount of compensation it should receive for its services nor has it any logical place in calculating that amount.







In all of the methods dealt with by the Canadian Pacific, the resultant amount of payment to that company is identical under each method. The reason for discarding the others and adopting the income tax method is based on a conclusion drawn which is set out in paragraph 77 of their submission, which reads as follows:

"The above methods also have a further disability in that except when Canadian National pays income tax, they would result in Canadian National receiving substantially more than would Canadian Pacific even though Canadian National moves less grain."

In making this statement the C.P.R. means that when the C.N.R. does not have a taxable income in any year, the gross amount of any subsidy payment would be retained by the C.N.R. while the C.P.R. would be taxed on any payment they receive. The C.P.R. plan would result in that company having the same net position which it would have under all of the other suggestions made but C.N.R. would receive only 50 per cent of the compensation it would be entitled to.

This argument, it seems to me, is based on a false premise, because the liability to pay income tax is entirely separate from the right to receive revenue for services performed. Under the C.N.R. proposal each railway company would receive its





proper gross amount of revenue and tax would be paid when profits are earned. I should point out, also, that the Income Tax Act applies to the Canadian National in the same way as it does to any corporation.

The whole tenor of the railways' case, which is set out in their Joint Submission to the Commission, is that they should be reimbursed for at least the cost of the work performed in carrying this traffic. The C.P.R. proposal confuses costs with profits.

It is our contention that monies received from the Government because rates have been reduced or maintained at artificially low levels by legislation should be reflected by the Railways as "Revenue" as is done under the Maritime Freight Rates Act and the Freight Rates Reduction Act. Relief to railways by way of Income Tax reduction would not be reflected through the Revenue accounts and could be construed as a device to hide subsidization to the shippers.

There are two other points to which I would refer:

1) In attempting to set out precedents for income tax relief the C.P.R. in section 78 of the submission, states the following:

"The Income Tax Act has for many years been used as a vehicle for meeting national obligation and implementing national policies, for example, the special provisions dealing with mining companies in their early years







"and the depletion allowance for such companies and the petroleum industry."

While there are precedents for granting relief under our Income Tax Act these are to meet specialized tax problems in different situations. In the case of mining companies there is the exemption from tax during the first three years of production which allows the companies to write off exploration and development expenses incurred in prior years. Similar relief for drilling expenses is afforded to oil and gas production companies. In 1952 reduced income tax rates were introduced into the Act for certain utilities engaged in the sale of electrical energy, gas and steam to customers in Canada. The tax rates on this class of business are two percentage points lower than those for other businesses. The purpose of this arrangement was to grant a measure of relief to these companies during the periods of very high corporate tax rates in order that they might earn a higher return on capital investment and be in a better position to attract additional capital. As part of this consideration it is recognized that the tariffs of these industries are subject to public control. The Minister of Finance, in his budget address (1952), explained that he was reluctant to apply a reduced rate of tax to a named class of companies and it was being done only as a temporary expedient. The tax relief was to cease when the general corporate rates dropped to the level of the new rates fixed for







the utility companies. This has not occurred up to this date. Under the Federal - Provincial Tax Agreements that were in effect at the time this legislation was introduced, one-half of the tax on these utilities was turned over to the provincial governments and in effect therefore the provinces shares this tax abatement with the Federal Government.

While the above cases are precedents for income tax relief they are directly related to specialized problems and to the adverse effect of high income tax rates on certain industries. In the case of the mining and petroleum companies the exemptions are related to the early write-off of development expenses against taxable income. These cases do not involve payments directly to the companies concerned and contrary to our grain rates case the relief is not for the benefit of third parties. The relief to the public utilities was granted reluctantly and only as a temporary measure to encourage capital investment. The railways do not have a tax problem with development expenses nor are they seeking relief of a temporary nature. Consequently, I do not think we would be justified in accepting any of the above situations as precedents for the proposal that the C.P.R. is now making.

2) In section 76 of the submission, the C.P.R. contends that the other methods of solution which have been suggested have the effect of overstating the true dollar amount of assistance which the National Treasury is providing to the Western wheat





growers. This arises from the fact that subsidy payments would be in the nature of gross revenues to the railways and in the case of Canadian Pacific 50 per cent thereof would be recovered as income tax. In the case of Canadian National, these gross revenues would reduce the deficit payments from the National Treasury or increase dividends to the National Treasury.

The C.P.R. considers that this net amount is the true assistance to the grain industry but actually this treatment understates the amount of assistance given to grain growers and therefore is misleading. I know of no other form of Government subsidy where the assistance has been netted and the actual amount of subsidy obscured. Such an approach would be contrary to the Government's practice in its own Public Accounts of making full disclosure to the public of funds collected and expenditures made from those funds.

Furthermore this practice of netting is inconsistent with other transactions carried on between the railways and the Government. Both the C.N.R. and C.P.R. perform mail, passenger, freight and express services for Government departments for which the National Treasury pays normal rates. In 1958 C.N.R. received several millions in payment for these services to Government departments. I see no more reason why services performed in hauling grain should be netted while payments for other services are not.

It is the view of the C.N.R. that the







C.P.R. method confuses Government financing of a Crown corporation with this assistance to grain growers.

THE ACTING CHAIRMAN: Mr. Cooper, have you any questions to ask at this time?

MR. COOPER: I think, Mr. Chairman, that the matter is clearly stated in the memorandum and the answer to Mr. Mann's question clearly appears from what Mr. Gordon has read, and therefore I have no questions to ask at this time.

THE ACTING CHAIRMAN: Mr. Dixon?

CROSS-EXAMINATION BY MR. DIXON:

Q. Mr. Gordon, as you say, the C.P.R. position has not yet been presented by that company, but as I understand your proposal you suggest computing the distance between the statutory rates and the just and reasonable rates and that you would receive a payment of the difference; if you were subject to income tax you do pay tax on that difference, if not, you wouldn't pay income tax, is that correct?

A. Yes, you pay tax in accordance with what taxes are eligible on our profit, the profit over all. It couldn't be identified with each particular thing.

Q. So far as the C.P.R. are concerned, they are not asking for any particular payment, they are asking for a method of deduction from income tax which the company otherwise overall would pay.





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TORONTO, ONTARIO

Gordon, cr-ex 1367  
(Dixon)

A. That is my understanding.

Q. That is the understanding. In the result, looking at the C.P.R. proposal, are they dollarwise any better under their suggestion of this income tax amendment than they would be if they received the amount from the Government and then paid income tax on it?

A. Not so far as I can se.

Q. Now, looking at the table which you have presented at the bottom of page 1 of your statement, and if you can apply these principles to that table, under the C.P.R. solution as I understand it they would get a deduction of \$17-1/2 million from their taxable income; that is assuming the company is subject to income tax, and the C.N.R. is not subject to income tax, is that correct?

A. I don't quite follow that.

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Q. Looking at the table at the bottom of page 1, and assuming, as I believe, to be the present situation, the C.P.R. is subject to income tax, the C.N.R. is not subject to income tax?

A. No, that is not correct; the C.N.R. is subject to income tax and I specifically state that in my reply.

Q. Is the company at the present time paying it?

A. It will pay income tax when it has a profit. The company at present is showing a deficit.

Q. And you would anticipate it will show a deficit in 1959?

A. No, I do not so anticipate. You are referring to the calendar year 1959?

Q. The fiscal year.

A. Well, in our year 1959 we will not show a profit.

Q. So you will not pay income tax?

A. I have never known of anybody paying income tax on deficits.

Q. Has the C.N.R. ever paid income tax?

A. Yes, it has.

Q. When was that, Mr. Gordon?

A. I would have to look back on the year.

Q. In what year was income tax imposed or commenced to be imposed?

A. We became subject to income tax following the Recapitalization Act, 1952, and I would have to look back in the years in between to





see whether or not, in fact, income tax was actually payable. I don't think it was actually paid; we became subject to income tax, but by reason of subsequent deficits under the rules of income tax we did not make payments.

Q. So, in fact, the company has not paid income tax since 1952?

A. Not in accordance with the Income Tax Act.

Q. Returning to the table at the bottom of page 1, and assuming in a particular fiscal year the C.P.R. is in a taxable position, the C.N.R. is in a non-taxable position, am I correct in believing that the C.P.R. receives as a deduction \$17,500,000 from the income tax which that company would otherwise pay?

A. I don't follow that either. What this table shows is that if gross revenues were received by C.P.R. the amount would be \$35 million.

Q. That is on a just and reasonable computation?

A. Yes, on the formula that we were proposing; and the C.N.R. would receive ---

Q That is on the statutory rate base; is that correct?

A. That is the proposal that is being made, if that were accepted, yes.

Q. Against that figure of \$35 million you apply whichever the applicable income tax rate may be for this year, which in this case is 50 per







cent?

A. Yes.

Q. It is an assumed figure, and in the result the C.P.R. would be entitled to deduct from income tax \$17,500,000?

A. Under their proposal, yes.

Q. And also under their proposal -- before I go on to that, the effect of that, I assume, is that taking it as an income tax deduction the value to the C.P.R. is actually twice that?

A. From a gross revenue point of view, yes.

Q. So it is worth actually \$35 million from a gross revenue point of view?

A. That is our point, yes.

Q. Then turning to the C.N.R. and assuming you are not in a taxable position, the benefit to your company would be \$14 million?

A. Under their proposal; but, of course, the same thing is true of the C.P.R., if they were ever so unfortunate to show a deficit, which I hope there never will be.

Q. I am following it through on their proposal, and I would like to compare it with yours to see if I can understand the effect of both proposals. But they have a benefit of \$35 million and you have a benefit of \$14 million?

A. Providing that we are each at that point on a profit position.

Q. Providing that they are on a profit position and you are not?





A Yes. In other words, under the C.P.R. proposal we would have \$14 million deducted from that deficit; that is right.

Q You would have the benefit of \$14 million and they would have the benefit of twice the income tax, \$35 million; is that correct?

A Yes.

Q So that one might suggest that under their proposal against these same figures, and assuming they are taxable and you are not, their proposal gives them a benefit over you of some relatively \$21 million -- \$14 million from \$35 million?

A No, I think that is mixing oil and water. I don't think you can figure it that way, because the amount of gross revenue that they receive is based on the amount of grain that they handle. You can't deduct the 14 from 35 because that arrives out of the volume of grain handled. Perhaps I can help you by putting it this way, that under either proposal the actual dollar benefit is the same. It is only a question of method, because if we are in a deficit position, under their proposal we get half the amount, and that reduces our deficit to that particular; but if you were doing it on a gross revenue basis, then our deficit would be reduced by more than that.

Q If you are in a tax-paying position, that is the difference?

A If that was the position, we would both come out the same way.







Q. But if one is in a tax-paying position and the other is not, the results, I suggest, are quite different?

A. Well, that is the point of my statement here; we think it should be adjusted from the gross revenue account and not through the question of income tax release.

Q. Now, Mr. Gordon, you mentioned that this determination of just and reasonable rates be made by the Board of Transport Commissioners, that is the just and reasonable rates on grain and grain products?

A. I didn't catch your last word.

Q. The determination of just and reasonable rates on grain and grain products that would be made by the Board of Transport Commissioners?

A. That is our suggestion.

Q. You are suggesting it be removed from Parliament?

A. No, not at all. We have made it very specifically that the statutory rates as laid down in the legislation remain.

Q. I am speaking of just and reasonable rates to which you refer?

A. Yes. When we come to the situation of establishing the costs our proposal is that we demonstrate those costs to the Board from time to time, and if the difference between the statutory rates and the cost shows a difference, then that difference should be paid in the form of a subsidy.

Q. And that determination by the Board





of Transport Commissioners?

A. Yes, or any other agency which the Government prefers, and we suggest that the Board of Transport Commissioners seems to be the most logical organization because they are equipped to do that.

Q. Then at the top of the next page the statement is made: "This calculation would be subject to annual adjustment." By that you mean the calculation of the tax credit?

A. No, the calculations that would be made -- at least the demonstration that would be made before the Board of Transport if our costs were increasing.

Q. Would you appear before the Board each year?

A. Not necessarily. It is subject to an annual adjustment, depending on the circumstances. If the costs were increasing each year where we thought we should make representation to the Board, then I am saying it should be made annually. That is, the same considerations would apply when we apply for a general revenue increase by reason of increased costs.

Q. Would you anticipate that a cost study would be made the same as you have made for this particular hearing?

A. Our intention is to keep the cost study current.

Q. On this question of C.P.R.'s income tax suggestion, how many tax-paying railway companies







would be affected by this suggestion?

A. In Canada?

Q. Yes.

A. I can't answer that question offhand.

I can't answer that. This is applicable to grain only, of course, and I don't think it is any more than the C.P.R. Northern Alberta would and perhaps P.G.E. would in due course.

Q. Would they be in a tax-paying position?

A. Certainly the Northern Alberta Railway is jointly owned by C.P.R. and C.N.R., and it turns out in our own statements in due course.

MR. DIXON: Mr. Chairman, if I might, there are a couple of questions which arose out of questions yesterday. They don't arise out of this particular submission.

THE ACTING CHAIRMAN: Yes.

MR. DIXON: Q. The first one is directed, Mr. Gordon, by questions which were asked by counsel for the Trucking Association. Is the trucking industry in Canada a competitive factor in the hauling of grain or grain products?

A. Not to any major extent, as far as I know.

Q. Is there any portion of western grain hauled by truck?

A. Yes, I believe there is some trucking in the Northern Alberta Railway territory, but I am not aware of any significance elsewhere.

Q. Is it a factor in the United States?





A. I couldn't answer that specifically, no. There is some done, but I haven't had a study made of it for my own personal information.

Q. If I may quote from a paragraph which appeared in the Northwestern Miller issue of May 5th this year, it says:

"Another step was taken here April 30th by railroad lines to recapture a substantial portion of the revenue business lost to truckers, especially that portion concerned with the movement of grain and grain products from point of origin to point of destination."

You haven't seen any of that trend in Canada at the present time?

A. No, for the simple reason that the truckers can't afford to compete with the Crow's Nest rates, and in the United States the railway rates are three to three and a half times what they are in Canada.

Q. If the Crow's Nest Pass rates were increased, say, one hundred per cent would that increase the truckers' chance of getting into this type of business?

A. If it was a matter of freight rates this is -- no, I don't see how that can apply.

Q. Let's say the statutory limitation was removed and the present Crow rates were increased one hundred per cent?

A. That is a very different thing. You are talking about the railways being able to







charge a freight rate which would ignore the present statutory limitations?

Q. Yes.

A. I still believe that the railways have a much bigger advantage technically in the hauling of grain than the trucks could achieve. In other words, I think the railways would remain competitive.

Q. At one hundred per cent increase in the statutory rates?

A. Yes.

Q. You wouldn't expect any more truck competition?

A. Not any more than at present, yes. After all, we are hauling the grain now at our costs. You are referring to an assumption that the rates would be increased?

Q. I am asking you if the rates, the statutory barrier were removed and the rates increased to one hundred per cent above the statutory barrier, would you expect more truck competition?

A. I still think the railway would have an advantage in hauling grain as such.

Q. But would you not expect additional truck competition?

A. I think the trucks would try it, yes, but I think the railways could meet that competition.

Q. Has that been a factor, that possibility ---.

A. If I may just clarify for a bit, it seems to me that what we are discussing is whether





or not trucks could haul grain at a cost lower than the railways.

Q. What we are discussing is whether you would be faced with truck competition if the statutory rates were increased one hundred per cent.

A. Well, on the basis of cost, my answer is no. On the basis of cost, my answer is no, because we are not asking in this submission for anything more than our costs plus a very reasonable margin of profit. Now, on that basis, my answer is that the trucks cannot meet railway costs and therefore would not be competitive.

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Q. Mr. Gordon, there was considerable said yesterday about the matter of abandonment of branch lines, are the lines which you normally look to for possible abandonment those which go to mining communities which have been closed down or what branch lines do you have in mind?

A. Not entirely. It depends on circumstances to a great extent. We have some I happen to know about, abandonment of coal mines in Western Canada. It all depends on the circumstances but what usually happens with these cases is that the railways develop the country and get into the remote areas and the community builds up and roads are established and alternative routes are established and there is not enough left for the railways.

Q. At the bottom of page 9 of your exhibit yesterday you say:

"... each branch line is being examined to ascertain if it can justify its existence."

What factors do you take into account as to whether or not it justifies its existence?

A. Quite a number. Justifies its existence in terms of the cost of maintaining that line for the type of traffic offering, whether we can handle the particular type of traffic offering and avoid heavy costs of a railway. If routes are abandoned in some cases we are prepared to give an alternative trucking service. It is really a





balance of the economic cost.

Q. Is it entirely on the basis of economics?

A. Pretty largely, yes, although there is an element of public convenience and interest too.

Q. What happens to these farmers who are relying on that particular branch line which is being abandoned?

A. Well, that is always a vital point in an abandonment. We never push forward a request for abandonment of line unless we are able to demonstrate that an alternative service is available on a basis of reasonable convenience. We have not gone forward with abandonment of lines where we leave people stranded for transportation.

Q. What alternative service is normally available?

A. Usually by road.

Q. Would that not normally increase the farmer's cost?

A. It depends on the circumstances -- it may not. It depends on the nature of the traffic and the kind of availability.

Q. In the normal course, taking it to a more distant shipping point would add to his time and gasoline cost?

A. It depends on what service is offering. I could not say it always increases costs.

Q. But in the normal course?

A. There might be an element of it. But, I would like to interject again there that all these







factors are weighed by the Board of Transport Commissioners. The Board of Transport Commissioners always reaches its judgment on the weighing of the burden to be imposed on the community by the abandonment of the service as against the railway's representation of losses. At times they will hold that the increased inconvenience or burden to the farmer more than outweighs what it is costing the railways to provide that service.

Q. What mileage in lines was abandoned in 1958?

A. I have not that readily available but there will be a submission later on on branch lines and it will be on a factual basis.

Q. Will that indicate abandonment by years and by the type of freight services by the branch line?

MR. McDONALD: Yes, all the particulars.

MR. DIXON: And by province?

MR. McDONALD: Yes.

MR. DIXON: Q. Would we also be advised as to the details of the applications pending now before the Board of Transport Commissioners?

A. Well, that is a matter of public knowledge. Actually there is no objection to that.

Q. You mentioned in your statement yesterday that your overall study is well advanced for possible further abandonment. Could you give us any indication of how much further mileage is being considered for abandonment?

A. That will be in the submission.





MR. McDONALD: That is something that is coming along in our general submission and we will get the details on that. The figures are not ready at the moment.

MR. DIXON: Thank you.

MR. MAURO: Mr. Chairman, I might say that the province of Manitoba has written to both Mr. Sinclair and Mr. McDonald concerning the very question that Mr. Dixon asked and both of them have kindly acknowledged they were so busy -- Mr. Sinclair told us he was busy preparing it.

THE ACTING CHAIRMAN: I can believe that.

MR. MAURO: But we are getting it.

THE ACTING CHAIRMAN: Mr. MacKimmie?

MR. MacKIMMIE: No questions.

THE ACTING CHAIRMAN: Mr. Sinclair, you may have some questions to ask?

MR. SINCLAIR: Well, Mr. Chairman, I think that the views of the Canadian Pacific on this matter will be presented through a witness rather than asking any questions.

THE ACTING CHAIRMAN: Mr. Blair?

MR. BLAIR: Mr. Chairman, I wonder with your permission if I might ask Mr. Gordon a question relating to the general evidence which was highlighted by the question of Commissioner Anscomb yesterday? Mr. Gordon, are you able to say whether in your opinion railway labour at the present time is fully and efficiently utilized? In referring to page 9 of your submission where you say, in the second







sentence in the second paragraph:

"Certainly the great task for the future and the one presently occupying much of the time of the railway management is that of re-adjusting the railway's plank facilities and working force to the kind and quality of the service which the public, increasingly accustomed to a choice of alternatives in transportation, will be prepared to patronize and pay for."

Can you say what steps are being taken to eliminate wasteful feather bedding practices which add to the freight bills?

THE ACTING CHAIRMAN: Well, I am afraid that we have enough trouble without getting involved in labour controversies. I think there is a ruling by the Chairman at the last meeting in that connection.

MR. BLAIR: Mr. Chairman, I have the greatest respect for the ruling which was made but the clients whom I represent and I think other interests in this country are very disturbed to think that the desire of this Commission not to go into the minutia of labour and management negotiations will prevent this Commission from examining into one very important element of cost so far as effects the operations of railways.

THE ACTING CHAIRMAN: Well, I think we had better get Mr. McTague's ruling on that.

MR. COOPER: I have the ruling here, Mr.





Chairman. This is on page 134 of the transcript for the 17th and 18th of September, 1959, the preliminary organizational meeting. I shall read the ruling:

"THE CHAIRMAN: Gentlemen, we have considered our rulings in respect to the matters on which rulings were requested yesterday."

Number 1 referred to statutory rates:

"The other is: In connection with the submissions received yesterday in regard to the Commission admitting evidence on general labour relations and alleged restrictive practices we all are of the opinion that in view of the fact that these relations are governed by voluntary collective agreements and that there exists legislative machinery for dealing with the collective bargaining process, and that the Canadian Labour Relations Board has jurisdiction in some of the matters, and that the Department of Labour is presently inquiring into some of these matters in connection with suggested amendments to the Industrial Disputes Investigation Act, such evidence is not admissible, and we so rule. This ruling is subject, however, to proof or evidence of conditions which are contemplated in specific sections of the Railway





"Act or in the Canadian National-Canadian Pacific Act, or the Transport Act, mostly in regard to separation and that sort of thing. That may prove to be a relevant part of labour here, but we do not know. However, at this timewe are accepting that as a general rule."

THE ACTING CHAIRMAN: I think that the ruling of the Chairman as announced must prevail unless you can relate your question in some way to the Canadian National-Canadian Pacific Act or something of that nature.

MR. BLAIR: Mr. Chairman, I wish to make a statement at this time, an explanation of the question I wish to ask. The Chairman's ruling, as I understand it, says in effect that it is not the function or the duty of this Commission to go into the minutia of management-labour problems. This is something with which I do not disagree. But, at the same time, one of the chief elements in the case which is being made here this morning by both the railways is the element of cost and I think it is undeniable that the greatest element of cost in the whole railway structure is labour cost. Indeed, since this Commission has had their preliminary meeting in September of this year the railways have been faced with a very substantial element of increased wages which are going to elevate the costs even higher than they are now.







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(Dixon)

Now, Mr. Chairman, the position which my clients take is not that the Commission should be invited to try to review the decisions of particular tribunals which have adjudicated on the labour questions relating to the railways but that this Commission in the exercise of the broad powers which it has must look at labour costs as a whole and attempt to decide whether there is wasted labour, whether labour is being properly utilized and whether here is a place where some savings can be made for the benefit of the shippers in Canada. If it is found, as it may well be found, that labour is wasted on the railways, that what the average person believes about feather bedding and the wasteful labour practices --

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MR. McDONALD: I might just point out that this sounds very much like the argument we had in September when that ruling was made.

THE ACTING CHAIRMAN: I do not think, Mr. Blair, we want to get evidence on the record if that evidence should not be on the record. The situation is this that by the time this Commission was through with the regional hearings in the maritimes and had its meetings here, and by the time we heard everybody yesterday, I think it is obvious we have had enough to do without embarking on another field altogether. This would be really embarking on something entirely new and different.

MR. BLAIR: Mr. Chairman, I am not wishing to argue with you, but what I think has happened here is that there has been a misconception as to what my clients wish to place before this Commission. It is not a question of asking this Commission to review and adjudicate upon labour bargaining processes, but it is purely and simply a question of cost. The Commission is directed in paragraph (c) of the Terms of its Reference to consider the possibilities of achieving more economical and efficient railway transportation, and, Mr. Chairman, my whole submission is: How can you perform this function if you exclude from your Terms of Reference, and from the evidence which is brought before you, the greatest single element of cost in railway operation?

MR. MacKIMMIE: Mr. Chairman, I think in clarification of this matter I must say that if







my experts are to be told they cannot look into labour costs which are taken into account in the railways' exhibits, where there must be a great portion of that cost included, then they cannot properly advise us. We must know about it. I support Mr. Blair very heartily.

THE ACTING CHAIRMAN: Since you are supporting this -- you are suggesting leading evidence ultimately on this point, are you?

MR. BLAIR: Well, to be quite frank, Mr. Chairman, at one stage my clients were giving this very serious consideration, then when the ruling was made in September the situation was left, as far as we were concerned, in a state of confusion so that we have not proceeded with these arrangements, but it is our intention to bring this evidence forward if we can bring it forward.

THE ACTING CHAIRMAN: Mr. Blair, you would not bring Mr. Gordon back again. This matter has been raised by you, and it is of sufficient importance probably, I think, that it needs a further ruling by this Commission. I would suggest that you withdraw your question now, and that we rule, after giving it consideration, whether or not the matter is one where the evidence may be led.

MR. BLAIR: Mr. Chairman, I will accept this ruling, and I will only say in conclusion that I had the feeling at the end of the hearing in September that there was considerable confusion between myself and the Commission. I did not feel





that the Commission fully understood the point I was trying to make, and I appreciate very much the fact that you will review the matter in the light of my remarks this morning.

MR. SINCLAIR: In the light of what Mr. MacKimmie has said, the railways have given the labour costs for the movement of grain. Mr. MacKimmie says: "If our cost consultants cannot know what the labour cost is we cannot do much with the study." Now, we have given him that in toto.

MR. MacKIMMIE: Can we test it, Mr. Sinclair? That is my point.

MR. SINCLAIR: Can they test it? The answer to that is that we told them to come up and look at the figures. They came off the records of the company. If our accountants have said that they paid out so much money for labour, and they did not, then that is a different matter, but so far as this goes of course he can test it. He has had his people up there testing it.

MR. MacKIMMIE: Between us we are pretty stupid -- one or the other. The thing I want to do is this -- Mr. Sinclair says he has submitted all costs in his exhibits. When I say this I am not talking about the arithmetic. I want to know if it is properly expended by them. I want to know whether he is using his labour cost efficiently. That is all. I am not questioning the accountants' figures.

MR. SINCLAIR: Mr. Chairman, they asked





for the labour agreements, and we supplied them.

MR. MacKIMMIE: You supplied us with a passenger service statement.

MR. SINCLAIR: With all due respect, that shows how much he knows, and how well he has done his homework. We supplied him with the labour agreements, and if he thinks not then I will be glad to show him.

MR. MacKIMMIE: It is a fact.

MR. SINCLAIR: It is not a fact. We supplied you with the labour agreements in extenso -- three of them. Now, Mr. Chairman, what we are saying is this, that we have contracts with labour. If these contracts are to be set aside that can only be done by mutual agreement pursuant to statute. If the grain trade, as represented by Mr. MacKimmie, are wanting to bring evidence to say that the railways have paid more than they should have paid to labour, then that is what they think, but when they ask us to test it then all we can give them are the agreements, which we did give them, and the amounts paid pursuant to those agreements which, under the law, are binding -- that is, under the Industrial Relations and Disputes Investigation Act. We gave them to him. They say they want to test them. After all, the only way they can test them is to look at the contract, know the law, and ask themselves whether it is a binding contract and what flows therefrom. That is my submission.

MR. MAURO: Mr. Chairman, I think I must rise in regard to this matter because it is







becoming confusing for me, having regard to the approach we have taken to this thing. I might say we had anticipated in the Province of Manitoba that when this cost study was up for review, while we were not interested and would take no part in the question of the labour agreements themselves, we would expose the officers of the company, or other individuals presenting evidence, to very searching examination as to whether or not there is an over-supply of labour, and whether there are more efficient ways of handling this. I suggest, Mr. Chairman, this is the very thing that is going on from day to day in the companies themselves. We in Winnipeg are confronted frequently with reports that the C.N.R. and/or the C.P.R. are laying off workers while a collective bargaining agreement is in force, so to simply suggest because the C.N.R. and C.P.R. have a collective bargaining agreement that it is an ironclad contract during the existence of which no changes can be made in the efficient operation of the railway which might, in fact, reduce the labour force, is a fantastic suggestion. I think that Mr. Blair and Mr. MacKimmie -- and now I must join forces with them -- are simply suggesting that we should be permitted in examining these cost figures to question the officers of the railways and/or their accountants as to whether or not there are efficiencies which might reduce the labour force, and ---

THE ACTING CHAIRMAN: Well, Mr. Mauro, we have got to see what doors are being opened, and





if we are to cover every facet of the economy of the company.

MR. SINCLAIR: We would like to have that question put to Canadian Pacific.

MR. MACDOUGALL: If that question is put to Mr. Gordon he will be happy to answer it right now.

THE ACTING CHAIRMAN: I do not think it is fair to have Mr. Gordon make a statement when the Commission is asking Mr. Blair to withdraw the question.

MR. MACDOUGALL: I was referring to Mr. Mauro's comment with regard to the general use of labour.

MR. MAURO: We will deal with it when the matter comes up.

THE ACTING CHAIRMAN: Yes, I do not think so.

MR. SINCLAIR: May I make a suggestion so that you may handle this, Mr. Chairman? Possibly this is going to be raised. I am quite sure that the provinces and the grain trade could possibly write out over the week end their official position on labour on the railways, and file it ---

MR. FRAWLEY: I am not accepting any such invitation from Mr. Sinclair.

MR. SINCLAIR: We could use that kind of statement very effectively.

MR. FRAWLEY: I am not going to accept any more of that from Mr. Sinclair. He is only endeavouring to put me on the spot -- me and some others.

THE ACTING CHAIRMAN: Of course, gentlemen, that sudden outburst just indicates where we may be getting on the matter of this whole question, and why







we must reserve our decision in that regard. What we are trying to do in this Commission is to solve a great problem. We have in mind the interests of the shippers and the public, and we have also to have in mind the railways. They all must be taken care of if we are going to do our duty, and we should approach it only -- every one of us -- from the standpoint of as broad a Canadian spirit as we possibly can. We will reserve our ruling on this.

Are there any further questions from counsel of Mr. Gordon?

MR. BLAIR: No, thank you, Mr. Chairman.

THE ACTING CHAIRMAN: Mr. Mann, you have some questions?

COMMISSIONER MANN: I would like to lead you into calm waters, if I may, Mr. Gordon. I have here paragraph 15 of Exhibit No. 46 which was filed yesterday -- perhaps I should read it:

"The payment to the railways of the difference between the statutory rates and a just and reasonable level of return would provide a subsidy to the grain growers of western Canada and be paid on their behalf. The payments presently made to the railways and the Maritime Freight Rates Act provide a subsidy to the shippers of the Maritimes and Eastern Quebec."

Now, I wonder whether you would go along with this: that the positioning of the two systems there was done for a purpose so as to point out the similarity





of your proposal to the procedure under the Maritime Freight Rates Act?

THE WITNESS: In regard to the method of payment, yes.

COMMISSIONER MANN: But there is a difference, Mr. Gordon, between the Maritime Freight Rates Act, in which I have a fleeting interest as you know, and the proposed solution on Crow in the procedure set out in paragraph 15?

THE WITNESS: Yes, there is.

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COMMISSIONER MANN: And your procedure would provide this, that after initial determination by this Commission or by the Board, I think, the Board will be required to certify periodically the difference between the revenue received from Crow by each railway, and the level of rates which the Board may find just and reasonable, and I quote the passage from the Commission, "Having regard to changing conditions or costs of transportation which may occur from time to time." Now, the difference as between the two levels of revenue, that would be the difference that would be certified, would it not?

THE WITNESS: That would be the idea.

COMMISSIONER MANN: And that difference would then be paid by the Government to the railways?

THE WITNESS: That is the suggestion.

COMMISSIONER MANN: That is the essence of the proposal?

THE WITNESS: It would be paid on behalf of the Western farmers through the railway accounts.

COMMISSIONER MANN: It would be the difference between the two levels of revenue?

THE WITNESS: That is right.

COMMISSIONER MANN: Now, that situation, I think you will agree, is different from that under the Maritime Freight Rates Act because there is no certification under the Maritime Freight Rates Act?

THE WITNESS: We are speaking of the method of payment and not only with the cost of the Crow's Nest rates, we are dealing there with the fixed rate







2 and that is not the case in the case of the Maritime Freight Rates Act because they do take general freight rate increases and the payment is supported by legislation. It is a percentage payment.

COMMISSIONER MANN: And the certification is not on the levels of rates, but on individual rates, is it not?

THE WITNESS: Yes, in respect of payment.

COMMISSIONER MANN: Now, I want to see --

THE WITNESS: May I just point out, Mr. Commissioner, that in the interests of preventing misunderstanding the sentence which says, "The payments presently made to the railways under the Maritime Freight Rates Act provide a subsidy to the shippers in the Maritimes and eastern Quebec." That is all that the statement says. It does provide the subsidy, but I am not trying to say it is the same thing we are proposing in connection with the Crow rates.

COMMISSIONER MANN: I wanted to clarify the method proposed by you as being entirely different from the method presently used under the Maritime Freight Rates Act.

THE WITNESS: The method in terms of the subsidy, yes.

COMMISSIONER MANN: Let me show you; this works out that the present Crow rate from Winnipeg to Fort William is 14 cents per hundred pounds. Supposing a reasonable rate would be 28 cents, and I put this word, "reasonable" in quotation marks at this stage of the proceedings, and then we get an increase of





100 per cent, and then supposing the Board authorizes within the next two years general freight rate increases totalling 50 per cent, would you think that this general freight rate increase would be applied on the Crow rate as increased initially by 100 per cent; would that be reasonable?

THE WITNESS: Yes, subject, of course, to the Board of Transport review in that respect. We would certainly, I think, make application in these circumstances to the Board of Transport so that a reasonable level would be adjusted upwards.

COMMISSIONER MANN: Then, the new reasonable rate from Winnipeg would be 28 cents for the 50 per cent, or 42 cents; I hope I am right in that.

THE WITNESS: I wish you wouldn't take such large ranges, it sounds very bad. We haven't yet succeeded, I regret to say, in getting a 50 per cent increase.

COMMISSIONER MANN: Now, that new rate of 42 cents, Mr. Gordon, wouldn't be determined as a rate, per se, but as a very small part of the new overall level of grain rates, would it not; there is no determination of the reasonableness of that particular rate?

THE WITNESS: Well, the determination would always have to be by the Board of Transport.

MR. McDONALD: The determination of the reasonable level of breakdown.

COMMISSIONER MANN: You have been talking about the level breakdown rather than the individual







rates?

THE WITNESS: I see what you mean.

COMMISSIONER MANN: The determination of whether or not that 42-cent rate would be reasonable or not would be the level?

THE WITNESS: That would be the level we have in mind, yes.

COMMISSIONER MANN: Going back to this Crow rate from Winnipeg to Fort William, which is 14 cents at that level over 420 miles and that rate is not attractive to the truckers, I think you said earlier?

THE WITNESS: Yes.

COMMISSIONER MANN: If it were increased to make it 100 per cent, to make it 28 cents, it might still not be attractive to the competitors, or do you think it would be?

THE WITNESS: I couldn't say; the truckers would have to answer that question. I have said in a general way that I am of the opinion that the trucking will never be feasible competition in volume with the transport of grain by the railway. That is my general belief, and if it ever got to the stage I think that the railway methods of operation would rapidly meet that competition.

COMMISSIONER MANN: I see. You see what I was trying to find out was by taking the rate at 14 cents initially increased by 100 per cent and getting 28 cents, and then increasing it another 50 per cent say as a consequence of a general freight





rate increase, and arriving at a level of 42 cents per hundred pounds over 420 miles, that looks very much in the range of feasible truck competition, bearing in mind the particular volume rates between Toronto and Montreal?

THE WITNESS: I wouldn't disagree there could be a place where the railways could price themselves into the truckers' market, it could be, but I have grave doubts that would become a volume factor.

COMMISSIONER MANN: I can see that. You see, if this traffic at 42 cents were non-Crow traffic, and you stood to lose 42 cents, you would likely meet that rate or come to a lower rate?

THE WITNESS: Again, it would depend on circumstances; I wouldn't like to make a general statement. I do see where there could be an individual situation where a farmer might find it to his benefit to truck his grain from his farm right through to the head of the lakes.

COMMISSIONER MANN: For the shortest distance?

THE WITNESS: There could be some individual cases of that, yes, but I still stick to my statement in terms of volume; I don't think it could ever be very great.

COMMISSIONER MANN: Mr. Gordon, I have one other question and this has something to do with horizontal increases, of which as you know we must deal at some stage of this evidence. I was looking last night at the rates from Winnipeg to Fort





William on Crow, and from Brandon to Fort William on Crow. Today under the Crow rate, under the Crow system, the Winnipeg to Fort William rate is 14 cents a hundred pounds, and from Brandon to Fort William it is 16 cents per hundred pounds, so the differential between the two rates is two cents. Assuming a 100 per cent increase generally talked about was put into effect, the Winnipeg rate would become 28 and the Brandon rate would become 32; the differential of two cents has now gone up to four cents per hundred pounds. Now, assuming what I have assumed before, another 50 per cent increase authorized by the Board at some stage, the Winnipeg rate would become 42 and the Brandon rate would become 48, and the original differential of two cents has now gone up to six cents. Now, I realize this is no concern under your system, and that of the C.P.R., to the farmer, but might it not be of concern to the crop which has to cover the payments? There is a horizontal impact there, the impact of the horizontal increase which would have to be covered, not by the farmer, we know that, but by the Crown. Is there any comment you wish to make on that?

THE WITNESS: I prefer not to comment on that; I think it gets into detail which would need some examination and I am sure you would get a better report from our rates expert when he is giving evidence. There will be evidence from our rates expert who knows much more about these details than I do, and I am afraid if I rushed into a reply







that afterwards he might say, "What on earth did you say that for?" I will leave it to the experts.

COMMISSIONER MANN: In part of the evidence given by your expert, may I suggest, perhaps, that some consideration be given in his evidence when the question comes up again as to whether, perhaps, the farmer in Brandon might under this system feel a greater stigma than a farmer in Winnipeg?

THE WITNESS: There may be analagous conditions arise, but I am sure they could be easily dealt with if and when they do.

COMMISSIONER ANSCOMB: Mr. President, will you just clear this up for me. I understood yesterday in your general statement that you were indicating a deficit for the current year. Now, I wouldn't raise the question again, but I think in answering Mr. Dixon this morning you took exactly the opposite position. Am I correct in that?

THE WITNESS: If I did, then I was very wrong in doing so. I didn't intend to do so; certainly we will have a deficit for the current year. As a matter of fact, we forecast our deficit, I think it was \$34 million-odd, that is what the forecast was and, of course, we haven't completed our figures yet, and I can't tell you.

COMMISSIONER ANSCOMB: I thought your first answer was correct. You correct it now, then?

THE WITNESS: I am sorry; I didn't intend to say that.

COMMISSIONER ANSCOMB: Could I just say





this, Mr. President, that with reference to the C.P. income tax suggestions which, of course, we haven't heard from yet, I take it that in the normal sense any adjustment of the Income Tax Act would be tied just to that, but when they bring in one and two on page 2 of your explanation they go further than the normal income tax suggestion, and if those two clauses were carried out it seems to me that they extend to you extreme generosity. In other words, in the figures that you yourself present, which you have taken from the Canadian Pacific, they would be given \$14 million -- or, you would, rather -- and if we followed the normal course of events, and I understand quite clearly that you are opposed to their suggestion, but if we come to the normal course of events of the increases, wherever they may come from, whether from the farmer or the taxpayer it doesn't matter to you, that if the C.P.R. got \$35 million more through normal taxes on that additional profit and if you got \$28 million more within the application of one and two that I have referred to, you simply would be here with a deficit instead of \$50 million of \$22 million; am I correct in that assumption?

THE WITNESS: In respect of the year in which we have the deficit, that is quite right.

COMMISSIONER ANSCOMB: The hypothetical year?

THE WITNESS: That is right.

MR. FRAWLEY: Arising out of Mr. Commissioner Mann's question to Mr. Gordon, I would like if I may







to ask Mr. Gordon a question.

Mr. Gordon, Mr. Mann called your attention to paragraph 15 in the principal C.N. submission in which you make the statement very plainly that this payment to the railways would provide a subsidy to the grain growers of western Canada. Now, Mr. Gordon, might I call your attention to paragraph 11 of the agreement of the 6th September, 1897, which you will find attached to the joint submission as appendix B. It is on page 44 of Exhibit 45, the joint submission. Do you have it now?

THE WITNESS: Yes.

MR. FRAWLEY: That is the agreement, that is the covenant between the C.P.R. and the Government of Canada, reading as follows:

"There shall be a reduction in the Company's present rates and tolls on grain and flour from all points on its main line, branches or connections west of Fort William to Fort William and Port Arthur and all points East of three cents per 100 pounds, to take effect in the following manner:-- one and one-half per cent per one hundred pounds on or before the first day of September, one thousand eight hundred and ninety-eight, and an additional one and one-half cents per one hundred pounds on or before the first day of September, one thousand eight hundred and ninety-nine; and no higher rates and such





"reduced rates or tolls shall be charged  
after the dates mentioned on such merchandise from the points aforesaid;"

That was the covenant originally made by the C.P., Mr. Gordon, validated by the statute which precedes it in this book and which can be found commencing at page 36. Then in 1925 there was added subsection 6 to the Railway Act, to Section 328 of the Railway Act, which simply said that the rates would be governed henceforth by the provisions of the agreement which I have just read.

Mr. Gordon, the proposal now made by the companies is that there should be a payment made to them by the Government of Canada so that they would receive in all twice the amount of money they are now receiving from the farmers themselves for the carriage of export grain; that is a fair statement, a fair way to put it?

THE WITNESS: I think so.

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Q. The agreement, then, in so far as the farmers are concerned, is remaining as it was written in 1897?

A. That is a legal question and I will not answer.

Q. Well, if the farmer certainly is going to pay any more than he has been paying now, surely it is not an inaccurate statement to say that the farmer is continuing to pay under the terms of the agreement of 1897?

A. I don't know whether the agreement of 1897 is in the statutes today; that is my point.

Q. That may be true.

A. If you say so, I will take your word for it.

Q. You are in it now and you were not in it in 1897?

A. That is my point.

Q. But you are ~~seeking~~ from the Government of Canada an amount of money, for instance, a portion of the total receipts covering the movement from Regina to Fort William of 20 cents to 40 cents?

A. Yes.

Q. I put it to you that instead of calling this a subsidy to the grain growers you are asking the Government of Canada to pay you some money to enable you and Canadian Pacific to fulfill the solemn obligations and solemn covenant entered into on September 6th, 1897?

A. That, of course, is not a question;







that is your argument.

Q. I am being courageous, Mr. Gordon. Do you agree with what I say?

A. No, sir, I am very courageous in saying I don't. All we are asking -- let me put it in a very simple fashion; I haven't got the interpretive analytical mind that you have -- all I can say in a very simple way is that we in Canadian National are asking that we be paid for services performed, having in mind the costs that we incurred in performing that service.

Q. That is really what the Bridge subsidy does; it pays you for costs expended in maintaining those traffics?

A. For services performed.

Q. And that has always been regarded, I think, as a subsidy to the railway?

A. Absolutely not, sir. We have said also that the matter of M.F.R.A. is not a subsidy to the railways; it is a benefit and subsidy to the shippers.

THE ACTING CHAIRMAN: I think those are all the questions, Mr. Gordon. We thank you, and may I say that the Commission is pleased and flattered that you and Mr. Crump, the heads of the two great railway organizations in this country, have come here at the opening of our hearing here. I can only say that we have some knowledge of the work you are doing and how essential it is to Canada, and we appreciate very much your having come here.

MR. GORDON: Thank you very much, Mr.





Chairman. You may rest assured we are at your service at any time to assist you in any way. Thank you.

---Short recess.

THE ACTING CHAIRMAN: Mr. Sinclair?

MR. SINCLAIR: From the remarks, Mr. Chairman, that you made at a stage yesterday, before my friends produce their answer in regard to the submissions made in respect to the motions, there is just one point that has been brought to my attention at page 1205 of the Transcript, Volume 10. It is when Mr. MacKimmie was speaking, and he said -- I am only reading after the conjunction -- "in fact, the people of Canada think that the Crow's Nest rates are the only ill and the healing of it would be a complete cure to all the railway problems in Canada." The transcript reads:

"Mr. Sinclair: That is my submission."  
That should be: "That is not my submission." It is so that there is nobody being misled in the position I am in.

THE ACTING CHAIRMAN: We are glad you clarified that.

MR. SINCLAIR: I am not taking the position, I don't, but if I did say what the transcript says, it was certainly that my mind was somewhere else. I think I did say it was not my submission.

MR. MACDOUGALL: Mr. Chairman, in reviewing the transcript this morning, there are a number







of items which might be described as errata in the cross-examination on testimony given by Mr. Gordon yesterday. I don't know whether this is an appropriate time to place on the record ---

THE ACTING CHAIRMAN: Well, you can file the corrections.

MR. MACDOUGALL: I will be glad to file the corrections. I would like to say for the benefit of the Quebec friends of Canadian National and Mr. Gordon that I would particularly like on page 1333 to see that the word "Chibougamau" is spelled properly. Also it is in the Province of Quebec and not in the Province of Ontario.

COMMISSIONER BALCH: How do you spell it, Mr. Macdougall?

MR. MACDOUGALL: It is spelled C-h-i-b-o-u-g-a-m-a-u.

THE ACTING CHAIRMAN: The arrangement is that we have the reply now.

MR. MACKIMMIE: Thank you, Mr. Chairman. If it please the Commission. I will not be very long, Mr. Chairman, in my reply to Mr. Sinclair. I think he did say he had some difficulty and trouble in following my motion. I explained it before I put the motion to you and, I believe, at least to my entire satisfaction, he demonstrated that he did understand it. I specifically, I thought, Mr. Chairman, advised the Commission that the essential purpose in passenger deficits was to indicate to this Commission that there are other unprofitable or non-compensatory services given the citizens of





Canada, that, too, should be subject to any form of relief. Mr. Sinclair advised the Commission that he knew of no other statutory rates of that class. May I say, Mr. Chairman, that the class to which I was speaking was any type of railway service furnished in Canada in the national interest or national policy which was unproductive of sufficient revenues to produce some income. That, I say, is the general class; that, I say, is something that should be spread among all people in Canada.

Now, in my answer I think I did concede to him when he said that passenger deficits were not part of this study. It was abundantly clear that that may be a profit and loss approach to export grain and certainly wasn't an answer to the broader issue which I felt was before this Commission. Now, to my request to see the profit and loss on the different branch lines operating in all sections in Canada, the brilliant answer was, do I want to tear up certain branch lines? Mr. Gordon, I thought, was perfectly frank in what he advised the Commission yesterday, and certainly it may be a good thing, he agreed with me, to have branch lines serving unproductive areas in the national interest.

MR. SINCLAIR: Well, Mr. Chairman, if Mr. MacKimmie is now going to refer to evidence and turn to the record, I am sorry, Mr. MacKimmie, but this putting in of Mr. Gordon's evidence surely is not an answer to the motion and we are not going to start dealing with that evidence, because if that is so, I





would feel it would be necessary for me also to deal with the evidence.

THE ACTING CHAIRMAN: I don't think so, but we will let Mr. MacKimmie make his reply.

MR. MacKIMMIE: Mr. Chairman, if I have attributed something wrong to Mr. Gordon, I was wrong, and may I say that it would be my submission that there are unproductive branch lines serving Canada which are in the national interest and which should bear their fair share of any relief that might be given.

Now, sir, perhaps if we adopt the phrase of some person, the burden to the public outweighs the disadvantages to the railways. Now, if the burden to the public is placed there because of passenger services in Canada, branch lines services or any other matters which I mentioned, then I say to you that these burdens should take their place in the picture with the Crow's Nest Pass rates in Canada, if, indeed, this is not compensatory.

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Now, Mr. Chairman, you asked other counsel whether they felt ~~that~~ they were non-compensatory: In so far as the organizations for whom I act, we like Mr. Dixon take the position they are compensatory until shown otherwise. We say further that to test them then indeed some of this information sought would be asked for.

In Mr. Sinclair's address yesterday he constantly referred to "Mr. MacKimmie wants to introduce these things, let him come at the appropriate time. He has a large organization headed by Canadians with lots of money". Mind you, we have working legal and economic staffs but I question whether we are any bigger than the Canadian Pacific Railways. That is no answer. I accept with grace his kind comments that we know everything about grain. May I counter and say he knows everything about railways and it is a little silly to say, "You, MacKimmie, acting for the grain companies, go and present this railway problem", when he has within his control the knowledge which I require. I am quite content to be a plaintiff in one phase of this whole inquiry but would like to be a defendant at other phases at an appropriate time if directed by this Board when he, as a defendant, has all the information I require.

Now, your comments: Mr. Chairman, you asked him what other things were going to be presented, what other railway problems or inequities. I heard one, Section 52 of the Railway Act and the general





statement there could be others. Now, as far as my clients are concerned I am not satisfied with Mr. McDonald and Mr. Sinclair saying these things will be put in at an appropriate time. My clients say the appropriate time is right now because it is at that phase of this hearing that we want to use this particular information.

The inference was left that my demands have been excessive. With respect, I do not think they are. I have asked for some general information, I have asked for passenger deficit, branch line operation, whether they are losing money, whether they are paying on a geographical basis: I have asked for, in totals only, the revenue produced in Eastern and Western lines. It is not so long ago this information was given for many years to the Board of Transport Commissioners and I just want to get that information too. Now, I have asked as well for non-rail income and I would not think that is a Herculean job that would take months to furnish me for the purpose for which I want it. I do say if we get it, we get it now.

Mr. Sinclair says in essence "Mr. MacKimmie's motion is nothing more than to frustrate the work of this Commission, call a stop and send everybody home for the railways to do more work". I would put it the other way, let the railways start to do the work that they should have done to present at the initial stages of this hearing. My clients have specifically instructed me to advise this Commission







we are not here to frustrate or delay. We will cross-examine on such material as we are able to at that time. I made a commitment in September that I would do my best to cross-examine even then on the question whether I could get into the costing phases of this hearing. I certainly will do everything I can with the material on which I have been instructed to cross-examine.

My motion was that when we come back, I think there will be motions before this Commission to cross-examine on costing, then this other information be given.

MR. SINCLAIR: This is another motion now?

THE ACTING CHAIRMAN: I take it not yet.

MR. MacKIMMIE: Yesterday you made two remarks to Mr. Sinclair and to all of us, indeed, you said this Commission is here to look into all railway problems. Secondly, and more important I think we will all agree, you said that this Commission should do nothing to disturb the unity of Canada. Now, in so far as transportation and the effect it has in Canada I can think nothing, nothing whatsoever that could lead more to disunity in Canada than to put the C.P.R. stoplight on one shipper who is being given service below cost when we know others exist. It cannot help, in my respectful submission, but result in the press, radio and through business, it cannot help but to result in some sections of Canada looking to others and saying "You are getting special treatment, you are the cause of my ills".





Certainly when the C.P.R. central solicitor suggested -- he only put it as a suggestion -- that now you might go one step further and make it in the form of an interim finding, I say that the people of Canada will not be served if we are going to preserve the unity with any such suggestion. I do not think it is a healthy thing that any Royal Commission or Government authority does anything which I say would cause one part of the country to be very critical of the services that have been given to the others.

The C.P.R. solution: They seem to suggest they want income tax relief. I think there is a fine distinction there but I do not want to get into any argument about subsidies. However, if they are not going to pay into the public treasury tax which they would otherwise pay, to me it looks like the same charge on the public treasury as if a subsidy were paid from it. Just why that subsidy has to be tacked to one great volume of traffic which is wholly unprotected from other forces of transportation systems to take their grain, I know not. I do not think that there is any doubt that the railway witnesses will admit, when the time comes, what losses there are in the other traffic. Just why they want to persist so much on the Western Canadian farmer, I do not know unless, reverting to former positions, that the real desire and the basic desire is to remove statutory grain rates from the control of Parliament. I know you commented and Mr. Sinclair commented, we are not asking the farmer





on this occasion, but I think it is emphasized in the picture at this time that he cannot afford to pay. The significant thing in so far as we are concerned, and there was some discussion this morning, if we are going to come back annually before the Transport Board and keep concentrating on what its deficit in this one traffic is to the exclusion of all others, then I do not think it is very realistic. I am a little suspicious of this Trojan horse that is going to offer this solution for a long range and certainly the Western Canadian farmer would have to suffer because public pressure will be brought through many media to show that there is one preference given in this part of the country.

It completely escapes me why they want to concentrate on one thing. There is no magic in the fact if they are losing money transporting grain, why can't they go in and say, "Now look, we are also serving this country with a number of branch lines in the national interests and it is a good thing for Canada and we should not do that for nothing, we should get a reasonable return for that too." Why they won't take that approach certainly defies my sense of fairness and certainly the sense of fairness of my clients. That is what I have to say as to the long range effect on what is going to happen.

I am not going to go into all of Mr. Sinclair's argument as to what he thought my purposes were. I credit this Commission and all its members with their sense of fairness to look at what I said as well as







what Mr. Sinclair said. I abide by the reasons which I say are honest convictions of these people to ask for this information.

One parting thing: Mr. Frawley asked for an early decision and you quite properly said no snap decision would be made. However, in so far as my position with my clients it is necessary to know what type of case I will be permitted to meet. If I am going to be locked in, as I think the position of the C.P.R., as I interpret their position, into one thing and not look to others then, please do not misunderstand this as a veiled threat because there is not one, just what assistance we can be with a very limited approach I do not know. I would have to receive further instructions. If I am to prepare a case of my own to cross-examine the railway witnesses then I respectfully request, without making any snap decision, that this Commission let us know as soon as conveniently possible.

Now, the attack on me -- not on me because there are no personalities here but the attack on my motion was chiefly delay. That just simply is not true. If this information in the form in which I asked for it comes I will assure you and the other members of the Commission there will be no delay unless there are very cogent reasons offered by my clients. Thank you for your attention.

THE ACTING CHAIRMAN: Mr. Frawley?

MR. FRAWLEY: Mr. Chairman and members of





the Commission, Mr. Sinclair's attitude towards my motion can be summed up very briefly as saying to the Commission "Mr. Frawley wants a great deal of information, he is at liberty to go and get it". I am going to read a paragraph from what Mr. Sinclair said at page 1282 as a starting place. I have to say to the Board that perhaps Mr. Sinclair said this with great jocularly but I am taking it very seriously because it goes to the gist of everything that I want to say to the Board. At page 1282 Mr. Sinclair said:

"Mr. Frawley, of course, comes from a wealthy province and they have at their command a whole university full of economists, statisticians, mathematicians, philosophers, lawyers."

I might be excused for taking a little bit of exception to the fact that my friend put the lawyers at the end of the list.

"Mr. Frawley has behind him the complete legal staff of the Alberta Government, skilled excellent people that we all know they are. He is under no disability."

Now, I am going to take that seriously because I am frank to say that I am seeking aid to make my own case. Let there be no doubt about that, I am seeking aid to make my own case and I make no pretense about it. I go to the C.P.R. and I ask them to furnish information, the tools with which I







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can do the job that I have set out to do on behalf  
of the people of Alberta. There is no question about  
that, let us not misunderstand each other at all.

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Why do I go to Canadian Pacific? Well, I go, Mr. Chairman, because chiefly, in the nature of things, there is not the material available in Ottawa such as there is, for instance, in Washington, in the offices of the Interstate Commerce Commission. If there were available here the material which has been built up over the years in the ICC, I doubt if my people would have had any problem when I asked them to cost such-and-such a movement. They could give me a fairly respectable answer which I could use to make the case I wish to make. I do not think this is giving evidence, Mr. Chairman, when I say I had a gentleman come over the other day from one of the cities in the United States. He spent a day in Ottawa with this Board, and in the Dominion Bureau of Statistics. He was received very courteously, as you might suppose, in both places, and he afterwards came to me and said: "Mr. Frawley, there is no data for me to work on. There is not the information which I need to do the job you want me to do." That happens to be a simple fact of life.

So, we have to go to the Canadian National and the Canadian Pacific and ask for this information, and I am sure, looking at you gentlemen and looking at Mr. MacPherson and Mr. Mann who have lived with the rate cases, and lived in this room for so many years -- they know as a fact that the information is not available. Therefore, if I want certain cost information, and I have not





got it, then I have to go to the railways.

That is the basis on which I am making this extraordinary application; this ill-considered application; this not too large application -- because that is how my friend described it yesterday. I want to make some things very clear as to the nature of the application I am making. I want costing analyses made of traffics that are remunerative. Mr. Sinclair thinks that when he points out that the traffic I am thinking about is remunerative that that is an end to it. I want to know the costing element of the traffic that is quite remunerative. I made my position very clear. There are burdens in this freight rates structure, and I want to know where those burdens are.

Mr. Sinclair says the Crow's Nest Pass traffic is a burden, and for the purpose of my discussion, and only for the purpose of my discussion -- as I stated yesterday, we have high hopes when our experts do the costing, and provided they get the information from the railways as I hope they will, we will come in and present a case to show there is no burden -- but let us say for the purposes of this discussion the grain traffic is a burden, then I say there are other burdens of that kind. Mr. MacKimmie has referred to some of them, and I will also in a moment. I say there are burdens, different kinds of burdens, placed upon the remunerative traffic to carry the deficit burden of the other traffic. I made that position clear in







September, and if I did not make it too clear then I wish to make it clear now.

This Royal Commission was established, I think there is no doubt -- perhaps I should say, in my respectful opinion, it appears it was set up as a result of two exhibits in the 17 per cent case, one filed by the Canadian National and one filed by the Canadian Pacific; the Canadian Pacific exhibit being No. 5822, and the Canadian National exhibit being Exhibit 5814. Exhibit 5822 indicated there on its face for all to see the distortions in the Canadian freight rates structure; distortions -- and I use the word deliberately in the plural -- distortions which required the railways to say to the Board of Transport Commissioners: "If you will give us \$31,500,000 . . ." -- I am speaking of the Canadian Pacific -- "If you will give us an increase of \$31,547,000 we will take \$23,000,000 and more of that \$31,000,000 from (what I call) the captive traffic." That was the distortion that resulted, in my respectful submission, and I think it is obvious, in the setting up of this Commission, because I say, paraphrasing it, that the Government of Canada said to this Commission: "This is wrong. It is wrong that you should now have got the Canadian freight rates structure, due to a variety of things for which the railways are not responsible, into such a situation that they go to the Board of Transport Commissioners themselves and say: 'We need \$31 million to pay this recently imposed wage award. We need \$31,500,000, but in





the light of things as they now exist we have to take \$23 million plus from the class rates and the non-competitive commodity rates -- the remunerative rates."

I say that I want to know how remunerative they are. I want to know the extent of the burden they are carrying in the Canadian freight rates structure. Why, Mr. Chairman, did they have to say that they were going to have to take \$23 million out of the \$31 million from the class rates and the non-competitive commodity rates? I might say in parenthesis that that situation struck the Government of Canada so forcibly that they passed a statute at the last session putting \$20 million into the Canadian freight rates structure as a temporary relief -- from what? It is perfectly obvious because the statute and the Order of the Board made subsequently limiting the benefit of \$20 million to these rates, the class rates and the non-competitive commodity rates, which was required on the C.P.R.'s own statement to take 73 point something per cent of the money they say they needed to pay a recently imposed wage award. Why did they do that? They did that because when they came to agreed charges and they looked at what they could get out of the agreed charges to help them pay the \$31 million they came up with the answer: "We can only get \$500,000 out of our agreed charges." These are the agreed charges that my friend says are remunerative, and he asks: "So, why is Mr. Frawley talking about them at all?" I am talking about them because that is what this Commission was set







up to look at and say why it is that that situation has occurred.

Can we do anything about it? The railways did not bring it upon themselves. I have heard them many, many times say: "We were forced into these agreed charges because of the competition of the trucks", but it is there.

Then, they come to international rates, and there is more distortion. That has no part of the large wage award, and that is all I am talking about. I am talking about the distortions disclosed by this document which I say more than anything else led to the setting up of this Commission. We find that the international overhead, import and export, and other related rates take no part of it. My friend says, and of course it is a fact, they take the increases ordered and authorized by the Interstate Commerce Commission. Even the Canadian portion of them take the increases authorized by the Interstate Commerce Commission. If you have a joint single factor rate running from Florida to Edmonton on canned citrus fruits you find that the whole of that haul from some place out on the Canadian boundary into Edmonton takes no increase at all under Canadian increase authorizations, but it takes the increases authorized by the Interstate Commerce Commission. So, you have what I call a ridiculous situation of the international rates in Canada, or that portion of the international rates in Canada which represents actual haulage in Canada, paying increases to satisfy





labour conditions in the United States. That, to me, is just one of the distortions, and that is why the Canadian Pacific had to come in and say: "Of the \$31 million we need to pay this last wage award in Canada no part of that increase on the haul from Emerson, Manitoba, to Edmonton extends. Because some of the increased wages went to pay a man on the haul from Emerson, Manitoba, to Edmonton we cannot take any part of that out of the international rates." They could apply no increase against that traffic because they said that the United States increases are applied there.

Now, I am not disputing that, but they may mention the grain and grain products rate. There is no increase there. We know that. That is one of the distortions that caused this document to look the way it does, and caused, perhaps, this Commission to be set up. It is a distortion, but it is only one of many distortions. I say, as I said yesterday -- and I may be excused for saying it again -- if my friend needs a subsidy he needs it because of what this document told the Government of Canada, and I am referring to Exhibit No. 5822 which is to be found in the last Judgment of the Board in the 17 per cent case. He needs it to take care of all the distortions, and he needs it, too, because he does not make anything from his passenger service; in fact, he makes minus several millions of dollars.

I am not pointing the finger at all. I associate myself with what Mr. MacKimmie says.





Probably these things have to operate just as they are. It is another problem. The freight traffic is disappearing to the trucks, and the passenger traffic is disappearing to you and me when we go from Ottawa to Montreal in our cars, instead of taking the train. That is the situation they are faced with. It is a difficult situation, but it is all of those situations which resulted in the Government of Canada setting up this Commission and asking you gentlemen to investigate them. I say it is ironical to think that we have watched this pendulum swing from the point where there is to be no mention of the Crow's Nest Pass rates to the point where Mr. Sinclair says he wants you to make a report just as soon as you can on that one topic. That, if I may say so, is reaching the fantastic. It is tragic to think that after fighting freight rate cases for ten years and watching things get worse and worse and worse, and watching that rate based on all the increases that could be applied shrinking and shrinking until now, as disclosed in the same document, it is down to 32 per cent of the revenue, and to think that now we are going to concern ourselves with it, and then in spite of that my friend just wants relief in regard to Crow's Nest Pass grain and says: "Leave the rest of it to us. We will work ourselves out of the passenger deficit." How, he does not say; Mr. Gordon did say, and please do not misunderstand me because I do not want to be misunderstood ---

MR. SINCLAIR: I was not giving evidence.

MR. FRAWLEY: No, but Mr. Gordon was.







MR. SINCLAIR: I do not know why we are going into that evidence in answer to a motion, Mr. Chairman.

MR. FRAWLEY: Well, well -- I think the Commission heard what Mr. Gordon said. We certainly got an unexpected bonus from Mr. Gordon when he talked so frankly about the passenger deficits, and when the joint submission says: "Leave that to management". As far as I am concerned, and the people I represent are concerned, put it right out on the table right next to the grain rates, and put the branch lines deficits right next to the grain rates. I cannot make myself any clearer than that.

As I say, I want information from the railways because I cannot go anywhere else, and I cannot make it too clear that it would be a sad result if my friend's position were accepted and for any reason -- any reason -- we were told this information cannot be made available to the people I represent.

The alternative is, of course -- my friends have always taken this attitude and have said: "We will give all this information to the Commission and to its staff." I am sure if they gave that information to the Commission and its staff it would be well examined, thoroughly examined, and very good results would ensue. I have every confidence in the staff which the Commission has gathered about it, and which it will probably continue to gather. Let justice be done, someone said, as long as the money lasts. That would probably be a good result, but





we would not have anything to do with it, and you would lose the benefit of -- I am certainly modest about anything I contribute to it; I must not give evidence, but I am sure my friend Mr. Sinclair would not mind me putting on the record a sort of ---

THE ACTING CHAIRMAN: You have both done it before.

MR. FRAWLEY: My friend Mr. Sinclair and I had a short exchange on the telephone the other day -- we have had many of them, I might say -- and I said: "Perhaps it would be better if we are all out of it. Don't you think we would all be better if I were out of this, Mr. Sinclair?" -- of course, I did not call him "Mr. Sinclair" -- and he said: "Of course, there is no question about it at all, Mr. Frawley" -- and he did not even call me "Mr. Frawley". He said, "Of course, you are a help to us. We recognize that", and they always have. Well, now, we are at a crucial point, and I say, sir, there is no jocularly about this. I say we are at a very crucial point here. We are ready and willing to bring forward experts, and to expend money in bringing forward experts, to place before the Commission what we think about the other distortions in the freight rates structure. I cannot get away from that because that is my simple proposition, and if we do not get the information from the railways we will be, as Mr. MacKimmie said, with all respect, be just sitting here as innocent bystanders.







I want to deal now a little bit with some of the specific answers that my friend made to my motion yesterday, and I want to call attention to something he said at page 1282 and it appears somewhat like the beautiful words he said about the fine university in Edmonton, but I can't see that he would be concerned about the fine university in Edmonton, but he spoke some words about it, and then on page 1274 -- and this is to the same point -- at page 1274 Mr. Sinclair said, "Mr. MacKimmie says the entire knowledge is with the railways; nonsense, utter nonsense. The entire knowledge about the movements of grain, many things about it the railways have to work hard to find out, and there are corporations that appear to have tremendously powerful grain interests in Western Canada." My friend wasn't too accurately reported there, but the sense is very obvious, he says it is nonsense to say the entire knowledge is with the railways.

As I say, I have departed from the record long enough to make the statement that one expert came here and went away empty handed, he couldn't get it. I say that because I wouldn't want the thought left we were just taking the easy way to get this information.

My friend said a lot of particular things, but I am concerned with placing my position before the Commission on a broad basis. He taunts me by saying such pertinent things as do I want this Government of Alberta, the province of Alberta, do I want the stop-off privileges to be taken out of the grain





structure. Now, of course, perhaps I had better not say what I think of that. It wasn't made seriously and I shouldn't take it seriously.

MR. SINCLAIR: Yes.

MR. FRAWLEY: I can tell my friend that the people of Alberta have no thought in the world of taking the stop-off privileges from the grain rate structure. When we say we would like to have more cost analysis on what we call suspect traffic -- suspect only in the sense that they are not returning the full costs, which my friend Mr. Sinclair wants a modification on, and starting by taking a leaf out of his own book, to look at some others and see how far these are from returning the full increase. There is nothing modest about what the C.P. is asking, they are asking for 100 per cent increase in the Western grain rates for export, and they are basing that on the basis that the farmers in Western Canada can well afford to pay the full costs of moving the grain to export positions and I simply take it on that basis and say that there are other aspects which should be costed, which should be analyzed to find out where all of the drag on the freight rate structure exists.

My friend says that passenger traffic is not a part of grain and that that ends the matter. We know that the passenger deficit hasn't been worked in as an item of expense in the costing of this grain. We have seen the costing data, our people in Washington have it now. We simply say that dollars are dollars, and what I say is that we got an unexpected





bonus from Mr. Gordon last night; Mr. Gordon said, well, they are both losses, but one is imposed upon us by statute and one imposed by the economic factors of life and we see quite a difference.

MR. SINCLAIR: That is not what he said. He said the rates he was talking about in regard to these other matters were compensatory.

THE ACTING CHAIRMAN: That is Mr. Frawley's interpretation.

MR. SINCLAIR: It is in the record.

MR. FRAWLEY: That is one point. Now, what is compensatory? All I am saying is that Mr. Gordon says there is something special and different about the loss of passengers as against the loss of the grain traffic. I would have thought Mr. Gordon, knowing about his Scottish background, I would have thought it would seem to him that it is a loss in dollars on the passenger traffic; the grain traffic at the moment hasn't been disturbed as such. It is a loss in dollars at the end of the year to these railways. Why do they say on one hand leave it, leave the distortion there, leave it on the rest of the structure, the freight rate structure; that is the point. The burden on the grain will be lifted, but the burden of the passenger deficits will be left. Now, we asked for --

MR. MACDOUGALL: I think Mr. Frawley might do us the courtesy of reading Mr. Gordon's statement; that speaks for itself, without his interpretation, if he wishes to make an argument. I think that is







what he is talking about, but Mr. Gordon didn't say the things Mr. Frawley is saying.

MR. FRAWLEY: No, Mr. Macdougall I am sure you distinguish between the verbatim quotations from what he said in the room here personally. I don't mind you making that comment, it is pretty obvious.

Now, for the branch line deficits. If it is dollars lost at the end of the year, then it is a loss. If it is dollars lost at the end of the year, if branch lines are unprofitable and these branch lines must be maintained -- now, the railways are doing a pretty good job of trying to get rid of these branch lines, and there are certain applications pending and probably other applications in the making to discontinue these unprofitable branch lines, but as of now and as of 1960 and 1961, and probably for many years thereafter, branch lines will be a deficit traffic.

All right, now, let us look at that, let us look at that now just in the mass to find out where some of these branch lines are. We wouldn't want the Commission to go away with the feeling that the only unprofitable branch lines are those which carry grain in Western Canada. I don't know, I just don't know, I simply say let us look at them and find out. It is possible there are some in Nova Scotia, it is possible there are some in Prince Edward Island, perhaps in Ontario and maybe even in Quebec. Now, if they are, then let us put them out right next to those deficits, the deficits





on grain traffic and then find out about what relief the railways need for everything, not for grain alone.

Now, my friend took exception, as I expected he would, to the letter that was written by me to him on the 27th of November, and he called attention to the fact that some of the traffics, with respect to which I requested costing analysis, were heterogeneous rather than homogeneous. Now, that is probably so and it certainly lies in my friends to say that if you are asking for a relationship of revenue to costs for agreed charges that it is perfectly obvious to do a proper job there one would have to select agreed charges; you wouldn't arrive anywhere in costing analysis unless you selected agreed charges and, as a matter of fact, rather than scorn the letter, as my friend did, he might have read it and realized the purport of the second page in which we asked for a traffic pattern and not characteristics and that meant with respect to us agreed charges; the traffic which is not homogeneous, that we were only asking for information which could be analyzed in the fashion set out on page 2 of our letter, which means that it can only be a homogeneous traffic.

Now, that is the end of all I have to say about that, but rather than reject it and say that we will not offer it at all, I say that when the Board comes to make its direction that they should certainly have in mind the fact that the only way in which you can comply with my request would be to cost the







traffics which lend themselves to costing, namely, the homogeneous items.

Of course, I say I associate myself with what Mr. MacKimmie says, that after listening to my friend answer my motion I feel that he has totally misconceived it. If he had not misconceived it he wouldn't have said in his reply, "He knows what remedy the law provides." He is dealing with agreed charges, and he knows what remedy the law provides. I know what remedy the law provides; it provides if anybody has any objection to the agreed charge he makes a petition to the Governor General in Council, or under certain circumstances to the Minister of Transport, and then if the Minister of Transport and the Government of Canada feels that that agreed charge is not in the public interest, then and then only can they refer the matter for investigation by the Board of Transport Commissioners. Now, that is a free and available remedy, and I think it should be put on the record that my friend says he knows the remedy the law provides. That remedy, incidentally, came about because the railways requested it as a result of the second Turgeon report. They have now got the matter of agreed charges virtually for all practical purposes, completely removed from the jurisdiction of the Board of Transport Commissioners. That is the remedy that the law provides, and he thinks that is what I mean when I call the attention of this Board to the situation on agreed charges. It indicates, sir, and I am only stating it for that





purpose, it indicates my friend has totally misconceived my request for costing information. The only conclusion that I could come to as a result of the position which my friend took before the Commission yesterday, was that everything else except the grain rates are to be left as they are. Now, my friend has said, "I didn't say that." I said that was a most significant matter and there may be others, and you may remember, Mr. Chairman, that when you asked him yesterday what are the others, I saw my friend Mr. Sinclair strike an attitude and look out the window and think of where these other things are that are wrong with the Canadian freight rate structure. That to me spoke volumes. My friend Mr. Sinclair, of all the people in Canada, is a person who knows more about Canadian freight rate structure than anyone else, and in that I will associate his colleague, Mr. Evans and more than any other person he has to look out the window to draw inspiration to find out, to think of where these other things are in the Canadian freight rate structure that might require treatment, and what does he come up with of all things, Mr. Chairman, what does he come up with? He comes up with the old horse, and appeal to the Governor General in Council.

Now, that about states the situation. There are only two things wrong with the Canadian freight rate structure, and as far as the C.P.R. is concerned -- I don't like to say this in the presence of Mr. Crump, but Mr. Sinclair is their spokesman and in





that regard it would have been very nice to have heard from Mr. Crump, and I say that seriously, and I probably will.

MR. SINCLAIR: I consent to that suggestion.

MR. FRAWLEY: It would be very nice to hear from Mr. Crump.

MR. SINCLAIR: You will.

MR. FRAWLEY: Now, Mr. Sinclair said there are just two things wrong with the Canadian freight rate structure. I think that is a powerful condemnation of the attitude which these railways take.

Concerning the situation discussed in the exhibit put in that is before the Board in the 7 per cent case, and as a result of which I say that if my friend doesn't like my saying that, I submit, was the reason more than any other reason why this Commission was set up, the Government of Canada said that this Commission will go out and find out, if you can, and it was a superhuman task that was given to you. I will not say superhuman, I hope it is not superhuman, but you are to go out and find out and look at all the distortions, every single one, ferret them out, and I hope you don't have as much trouble trying to get the information as we have had to do to ferret them out, and then say what relief the C.N. and the C.P. should have.

I say, sir, that my application should be granted in toto and without reservation. We must have this information or we can't proceed at all to make the statements, the helpful statements, which I







personally would like to make on behalf of Alberta.  
I can't make them, and I don't want any misunderstanding about it, unless I get that information.

I thank you for having listened to me, and  
I ask that my application be granted without limitations  
anywhere.

THE ACTING CHAIRMAN: Well, Mr. Frawley,  
the motion will be considered, yours and Mr. MacKimmie's,  
at the earliest possible date, but I can't tell you  
that it will be this afternoon.

Now, Mr. Sinclair?

MR. SINCLAIR: Yes, Mr. Chairman; I can call  
the next witness, if you will, or if you want to take  
a five-minute break.

THE ACTING CHAIRMAN: Perhaps we can have a  
five-minute break and get started then.

--- Recess.

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THE ACTING CHAIRMAN: I was sorry to have picked you out, Mr. Mauro, but you are associated with Mr. Frawley's motion, and if you wish to take part in the Reply, we would be glad to hear you. I think we will hear Mr. Mauro. Then we may adjourn actually until Monday morning when we will start with the next witness.

MR. COOPER: Mr. Chairman, I have spoken to Mr. Sinclair with respect to the matter of adjournment. He would like to lead evidence with his next witness this afternoon, if there is sufficient time, just to get the evidence on the record in chief.

THE ACTING CHAIRMAN: That is fine.

MR. SINCLAIR: I am afraid, sir, that there are some commitments of some of my witnesses, and I would like to try and get them in.

MR. MAURO: In view of that remark, Mr. Chairman, my comments will be very brief. The points that I want to generally cover have been covered in the usual excellent fashion by Mr. Frawley. I wanted to make the position of the Province of Manitoba clear. This idea of; "Are we suggesting in this analysis that passenger deficits, if so ascertained, should be placed on grain traffic or any other traffic?" -- our categorical answer is no. Do we want those deficits or the traffic in relation to stop-off privileges changed or increased? Our answer is no. Do we want any specific rate increase? Our answer in general is no. But the reason why we want this information is simply to permit us to place before this Commission the complete national transportation





problem in its proper relief.

Now, it is my opinion that if we are suggesting a tap on the federal treasury, there is little difference as to why you tap that federal treasury. If we ascertain the grain rates are a deficit traffic to the extent of \$25 million and we find that the passenger services are a deficit of \$25 million, then I see no reasonable argument to say that you should tap the federal treasury on subsidy to the grain traffic and leave the passenger traffic sacrosanct, being under managerial jurisdiction, and I leave that to passenger traffic and other aspects.

As to the question of delay that Mr. Sinclair mentioned yesterday, I want to assure the Commission that it was never our intention to put forward these requests for any delay, and we understand obviously this information cannot be forthcoming immediately on the part of the railways. All we ask is for some assurance that the detail be provided in due course so that before the conclusion of the Commission hearings we will be able to assist in the presentation of the whole case. We had thought that a great deal of this information was, in fact, within the immediate knowledge of the railroads. We have found for a number of years that questions arose as to whether or not the skelp -- and I do this on behalf of my learned friend Mr. Frawley -- to Vancouver of 95 cents was compensatory, that Mr. Sinclair or someone would immediately leap to the fence that it was compensatory. If we are, in fact, to come to the







conclusion that all these individual movements were within the knowledge of the railways to be compensatory, then they must have detailed information as to what these movements cost them. It would be as if a grocer said: "I don't know what the eggs cost me, but I make money on them." Surely it is within the costing mechanism of the C.P.R. who do have the data to show what, in fact, are the out-of-pocket and distributor's costs. Perhaps the request as it went forward to Mr. Sinclair was either in not sufficient detail or was too extensive in its demand. That may be, but I would then have expected my learned friend to say that they could provide information to this extent on these particular matters.

So I wanted, particularly, to speak in reply, Mr. Chairman, because I felt there was an atmosphere being re-created in this room which reminds one of rate cases. I hear the terms "defendant and plaintiff", "opponent and proponent". It would be our hope that there would be no plaintiff, defendant, no proponent or opponent. It was our hope that there would be an analysis of evidence, and there is no question about it that the railways and ourselves may disagree on an interpretation of that, but I felt surely we could assist each other in the obtaining of that information and the processing of that information. So I wish to join my learned friend Mr. Frawley in the motion and trust that it will not result in any delay. I can assure you it will not result in any delay on the part of the Province of Manitoba, and we hope





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that we can come to a discussion and conclusion on the whole problem.

MR. SINCLAIR: I think, Mr. Chairman, that possibly by moving right along here I can put the evidence-in-chief of the next witness in by one o'clock.

THE ACTING CHAIRMAN: Fine.







C. D. EDSFORTH, called

MR. SINCLAIR: Mr. Edsforth, Mr. Chairman and members of the Commission, is the Vice-President of Traffic in the Canadian Pacific Railway. He has general supervision over all traffic on the Canadian Pacific. He has been with the company some thirty-six years, having entered the company's service as a clerk in Saint John, New Brunswick, in November, 1923. He had various traffic positions after that as he received appointments and promotions, such matters as claims clerk, rate clerk, travelling tariff inspector, assistant freight traffic manager, Montreal, in 1930, chief clerk, the Division Bureau, 1934, assistant to the general freight agent at Toronto, 1941, district freight agent, London, Ontario, 1947, assistant general freight agent, Rates Division, at Vancouver, B. C., in 1948, assistant general traffic manager in Montreal, 1954, general traffic manager, 1958, and Vice-President of Traffic as and from September of this year.

THE ACTING CHAIRMAN: Mr. Sinclair, those of us who know Mr. Edsforth and have known him have much pleasure in congratulating him on his promotion to Vice-President of Traffic. We feel that the promotion is very well merited, because we know him as a very competent traffic man in Canada.

MR. SINCLAIR: I thank you, sir, on his behalf, for those very kind words. We in the Law Department of Canadian Pacific who have worked with





him certainly agree with that wholeheartedly.

Now, he, of course, is an old friend of many of us, as you noted. . . . He attended all the hearings of the Royal Commission in 1949 and 1950; he has been in general revenue cases from 1950 onwards.

THE ACTING CHAIRMAN: I don't know how often I have cross-examined him.

MR. SINCLAIR: And he has been here on some specific cases; he was a witness before the Royal Commission on the Coastal Trade from 1955 to 1957, and he has been before the Interstate Commission on a number of occasions. Also, while he was doing those other cases, he has taken time to do lectures at McGill University in 1952, 1953, 1954 and 1955. He has also lectured at St. George Williams College on transportation and traffic management in 1955 through to 1957, and he also delivered papers in connection with courses at Assumption College in Windsor, particularly in relation to agreed charges.

Now, if I may, Mr. Chairman, I would like to file as exhibits, and I will put these seriatim, if I may, the three statements that followed the precis that Mr. Edsforth is going to speak on. That precis was entitled: "Canadian Pacific Railway. Memorandum in respect of 'History of Statutory and Related Grain Rates'". Attached to that statement that has been in the hands of the Commission and my friends for some time are three statements, the first marked at the bottom "100" which I would ask be marked as Exhibit 49.





---EXHIBIT NO. 49: Canadian Pacific Railway:  
Comparison of Crow's Nest  
Rates on wheat from repre-  
sentative prairie points to  
Fort William-Port Arthur  
in effect.

The second is a statement entitled "Com-  
parison of rates on grain and grain products to Fort  
William, Ont., from stations on branch lines with rates  
from equidistant points on the mainline, in effect  
July 6th, 1922." That is designated Statement 101.

With your permission, sir, Exhibit No. 50.

---EXHIBIT NO. 50: Canadian Pacific Railway:  
Comparison of rates on grain and  
grain products, to Fort William,  
Ont., from stations on branch  
lines with rates from equidistant  
points on the main line, in  
effect July 6, 1922.

And the third being entitled: "Statement of  
rates on grain to the lakehead at dates shown," being  
designated Statement 102 on the lower right-hand  
corner. With your permission, sir, Exhibit 51.

---EXHIBIT NO. 51: Canadian Pacific Railway:  
Statement of rates on grain to  
the lakehead at dates shown.

DIRECT EXAMINATION BY MR. SINCLAIR:

Q. Now, Mr. Edsforth, would you please  
state to the Commission concisely the history up to  
the year 1925 of rates applicable to the movement of  
grain and grain products from stations in western  
Canada to the export positions?

A. Well, I think I have set it out as  
concisely as I can on page 1 to 16 on my memorandum







of evidence, and I would like to have it taken into the record as my answer.

MR. SINCLAIR: With your permission, Mr. Chairman, the answer to the question put to the witness would commence on page 1 of his memorandum with the paragraph starting: "In 1897 an agreement was reached... and going through to page 16, finishing with the end of the third complete paragraph: "Actual mileage is also used on traffic moving through Churchill".

THE ACTING CHAIRMAN: That is satisfactory.

MR. SINCLAIR: Q. Now, I think it would be of assistance in understanding the history of this matter, Mr. Edsforth, if you looked at Exhibit No. 49, that is the document entitled: "Comparison of Crow's Nest Rates on wheat from representative prairie points to Fort William-Port Arthur in effect," and then it sets out the various dates.

Taking a representative origin point off that statement, would you trace the changes in the rates over the years?

A. Yes, I would be very glad to do that. Looking at Exhibit 49, I think if we take Regina, which is shown on line 9 of that exhibit, and follow the rates shown there, we can perhaps trace the history. Now, under the first column, column headed (2), showing the rate on July 31st, 1898, this shows that the rate from Regina on that date was 23 cents per 100 pounds. The significance of that date is that it was the day before the first stage of reduction in the Crow's Nest Agreement came into effect.





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Then on the next column, No. 3, the rate on August 1st, 1898, is the next date, and it became  $21\frac{1}{2}$  cents. That is the first stage of the 3-cent reduction.

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Following to the next column, column 4, on September 1st, 1899 the rate is shown as 20 cents. That is the second stage of the 3 cent reduction so between July 31, 1898 and September 1899 the rate from Regina had been reduced by 3 cents per hundred pounds.

The next date shown in column 5 is October 7, 1903 and the rate shown therein from Regina is 18 cents per hundred pounds. That is the reduction made following the so-called Manitoba Agreement whereby the Government of Manitoba and the Canadian Northern Railway entered into certain agreement a part of which called for reduction on grain from points in Manitoba to Fort William. The Canadian Pacific was not a party to that agreement but subsequently through negotiation it did agree to make adjustments although not at the same level as the Manitoba Agreement had called for. Furthermore, while the Manitoba Agreement only covered the rates from Manitoba, in order to take care of rate relationships adjustments were also made from points west of Manitoba in what are now the provinces of Saskatchewan and Alberta and the rate on wheat from Regina under that adjustment became 18 cents per one hundred pounds or 2 cents lower than previously.

The next column, No. 6, on March 15, 1918 shows the rate from Regina as being 20 cents per hundred pounds, that is an increase that was made in the so-called 15% case of 1918.

Q. Mr. Edsforth, if I may interrupt you here. In that case there was a judgment by Sir Henry Drayton that is reported at 1917, 22 C.R.C. at 49 and at page 68 Sir Henry Drayton said, and I wish to read these extracts







and ask Mr. Edsforth to comment on them:

"The mere fact that an agreement, in the light of changed circumstances, proves improvident and provides rates insufficient to enable the company's property to be properly kept up and to meet the current demands of transportation, also involves loss to the shareholders, is not an answer to the company's primary obligation to properly operate the road.

"It may well be that an agreement made by the directors elected by the shareholders cannot be set aside on the application of the shareholders themselves; but, on the other hand, it is clear that no agreement ought to stand in the way of the public as a whole obtaining the full benefit of that measure of transportation which a properly maintained condition of the company's facilities would permit."

Then later:

"It is also apparent that an agreement which reserves an unremunerative rate applicable in the one district involves a discrimination as against other districts where traffic and operating conditions are similar, and directly infringes on the provisions of the Act requiring uniformity in rates."

Now, Mr. Edsforth, for the benefit of the Commission, would you give them your comments as a traffic man on that quotation from the judgment of 1917 having to do with the agreement known as the Manitoba Agreement and





its effect on rates?

A. Well, the reasoning of Sir Henry Drayton that it is prejudicial to the public when rates are unreasonably low and when rates are not changed to meet increased costs applies fully to the present situation which exists under the fixed statutory level on grain and grain products moving to export positions in Western Canada.

Q. Now, would you go back to Exhibit 49 and continue with your discussion of that point? You took Regina as to the changes down through the years.

A. Yes. The next change is shown in column 7 taking place on August 12, 1918 when the rate from Regina was increased to 24 cents per hundred pounds. That was the increase made in the so-called 25% case of 1918. That increase followed the McAdoo award in the United States and in making the adjustment in the grain rates the rates were increased by the same amount per hundred pounds as rates from points of equal distance in the United States -- in north-western United States.

THE ACTING CHAIRMAN: Well, there had obviously been some move under the War Measures Act?

MR. SINCLAIR: Yes.

A. This was done under an Order in Council.

Q. That was the rate in 1918?

A. Yes, 1918.

Q. Would you then go on to the next step shown in column 8?

A. It shows that the rate from Regina on September 13, 1920 was 32½ cents. That increase arose





through the so-called 40% case whereby the rates in Eastern Canada were increased 40% and the rates in Western Canada 35%.

Q. Just one moment, Mr. Edsforth. In 1920 when the rate from Regina was  $32\frac{1}{2}$  cents per hundred pounds will you please tell the Commission what was the percentage increase on the rate from Regina at this time over the rate of 1899 when the Crow's Nest Agreement was operating?

A. Yes. That increase was  $62\frac{1}{2}\%$  higher than the rates of 1899 from Regina.

Q. In 1920?

A. Yes.

Q. Would you go back to the exhibit again?

A. The next change takes place on January 1st, 1921 under column 9 when the rate from Regina was reduced to 31 cents. That was also part of the 40% case. This 40% increase in the East was only made until the end of 1920 and thereafter it became 35%. In the West where the 35% increase had been granted in September of 1920 it was changed on the 1st of January, 1921 to 30%. Then, in the next column, No. 10, on December 1st, 1921 the rate was further reduced, that is it went down to 29 cents per hundred pounds. That was a reduction of approximately 10%. That is to say, the rates in Western Canada became 20% higher than the rate prior to September 13, 1920 and in Eastern Canada 25% higher. Those adjustments, of course, were applied to all the freight rates, not just grain.

Q. Do you know, Mr. Edsforth, how those reductions arose?







A. Yes, that reduction followed from a case entered into by the Board on its own motion following a reduction on railway costs.

Q. Would you go on, please?

A. The next change is shown in column 11 under date of July 6, 1922 when the rate from Regina was reduced back to 20 cents per hundred pounds. That was at the time when the temporary suspension of the Crow's Nest Agreement expired and the Crow's Nest level of rates was restored so that the rate of July 6, 1922 became the same as it was on September 1st, 1899.

Q. And the last column?

A. The last column, No. 12, are the present rates and it shows that the rate from Regina is still 20 cents per hundred pounds, the same as it was on July 6, 1922 and on September 1st, 1899.

Q. What is the difference between the rate of 1920 and the present rate on grain?

A.  $12\frac{1}{2}$  cents per hundred pounds, that is from  $32\frac{1}{2}$  cents on a reduction down to 20 cents.

Q. The present rate from Regina is  $12\frac{1}{2}$  cents per hundred pounds lower than they were in 1920?

A. Exactly.

Q. Now, why is the rate of 20 cents the same as it was in 1899?

A. Well, because of an amendment in the Railway Act in 1925 whereby the level of rates on grain and flour to export positions in Western Canada was fixed by the statute.

Q. Now, in the last paragraph on page 16 of your





precis, would you please turn to that?

A. Yes, perhaps I might read that.

COMMISSIONER MANN: May I ask Mr. Edsforth one question on Exhibit 49?

MR. SINCLAIR: By all means.

THE ACTING CHAIRMAN: There may be an error.

COMMISSIONER MANN: Yes, but we do not know.

The rates in column 4 are identical with those in column 12 with the exception of the rates marked with an asterisk which became effective on September 12, 1927. The only other departure from equality is the rates from Edmonton in the last line which was 30 in 1899 and 26 which is not marked with an asterisk. There is probably an easy explanation?

THE WITNESS: Yes, that followed from a Board's judgment, I think it was in the 10% reduction case and if I might refer to it I will give you --- before I get the judgment, at that time the rate from Edmonton as prescribed by the Board would be no lower than the rate from Calgary.

THE ACTING CHAIRMAN: That is the old Calgary-Edmonton fight. Mr. Frawley knows all about that.

MR. FRAWLEY: There have been some changes made.

Q. May we proceed and as soon as the so-called helpers find it we will put it on the record. Now, Mr. Edsforth, will you please refer to the bottom of page 16 of your precis to give your answer? My question, just to bring it back was what caused the rates today to be at the level they were in 1899 at Regina?

A. Well, that was following from the 1925 amend-





ment to the Railway Act by which a fixed level of rates on grain and flour was prescribed, that level being the same as contained in the so-called Crow's Nest Agreement of 1897.

The 1925 amendment to the Railway Act which was fully implemented by 1927, superseded the rate provisions of the Crow's Nest Agreement and substituted a fixed statutory basis for grain rates moving to all export positions in Western Canada. This statutory basis fixed the rate level for grain shipments

- (a) from all points on all lines of railway in Western Canada to the Lakehead (Railway Act, Sec. 328(6);
- (b) from Western Canadian shipping points to Pacific Coast ports on export movements of grain ( Railway Act, Sec. 328(7) and Board of Transport Commissioners Order 448);
- (c) from shipping points in Western Canada on Canadian National Railways to Churchill, Manitoba (Railway Act, Sec.328(7);
- (d) on the same mile for mile basis for shipping points on branch lines as exists for shipping points on the main line on traffic moving both to the Lakehead and to Pacific Coast ports for export (Railway Act, Sec. 328(7) and Board of Transport Commissioners Order 448).







Q. Mr. Edsforth, in what way did the statutory prescription of rates under the Railway Act differ from the rates provided for under the Crow's Nest Pass agreement?

A. Well, the prescription of statutory rates went far beyond the provision of the Crow's Nest agreement with respect to the rates on grain and flour. It imposed that level of rates not only on shipments moving from points on the Canadian Pacific which were in existence at the time that the agreement was made, but also to all stations on all lines of railway then in existence or which might be subsequently added. The effect of the wider application of the fixed level of rates by the statute can best be appreciated by the fact that in 1897 when the Crow's Nest agreement was made Canadian Pacific operated 3,949 miles of railway and published rates on grain and grain products from 289 stations on its lines west of Fort William. Today Canadian Pacific operates 11,209 miles of railway in Western Canada and publishes rates on grain and grain products from 1,313 stations to the lakehead. In addition, at the time of the agreement there were no rates on grain and grain products published by any other railway to the lakehead.

Q. By the way, do you know percentagewise what that increase would be? Have you ever thought of working that out?

A. No, sir, but roughly the mileage seems to be about 300 per cent.





Q. And the stations?

A. 500 per cent, I would think looking at it rather quickly.

Q. Now, you were talking about the increase in the mileage from 1899 to the present, and also in respect of this number of stations?

A. Yes.

Q. You were dealing with other matters. Would you go on, please?

A. Yes, that was the extension of it so far as Canadian Pacific were concerned. But, in addition, at the time of the agreement there were no rates on grain and grain products published by any other railway to the lakehead. Today there are rates published from 1,332 stations on the Canadian National Railways, and 128 stations on the Northern Alberta Railways. Another indication of how it has expanded is that the grain crop in Western Canada in 1897 was 32 million bushels; in 1958 it was 829 million bushels.

Q. That is the crop grown and not the crop shipped?

A. No, that was not the crop shipped. That was the crop grown.

Q. Those were some of the effects that flowed from the changes. Were there any others?

A. Well, yes, there were others because under the statutory prescription it made it necessary for the Board of Transport Commissioners to extend the same level of rates to the movement of grain and flour moving to Pacific coast ports for export.





Q. Is there anything else you wish to draw to the attention of the Commission?

A. Yes, in addition to that, because of the amendment to the statute, the Board of Railway Commissioners found it necessary to reduce the rates from branch line points to the same level mile for mile as the rates from the main line points. Now, at the time that the Crow's Nest agreement was made, and subsequently thereto, rates were published from branch line stations in many instances on a somewhat higher level than for equal distances on the main line.

Q. Is that pointed out in these exhibits which have been filed?

A. Yes, Exhibit 50 is an illustration of comparative rates from branch line stations and from main line stations on July 6th, 1922, which was the date on which the Crow's Nest rates were restored. I would not think it would be necessary to take up the Commission's time by going over all the examples, but I might pick out one. There is a station called Lanigan in line number 3 of Exhibit No. 50 in which it will be observed that the rate from Lanigan to Fort William was 23 cents per 100 pounds for a distance of 824 miles, Lanigan being a station on a branch line. Now, for a station of equal distance on the main line there is a place called Boharm, a distance of 826 miles. The rate was 21 cents per 100 pounds. So, the rate from Lanigan, a branch line station, was two cents higher than the rate from a main line station for an equal







distance.

Q. So that pursuant to the Crow's Nest agreement reductions an equidistant branch line point would be paying 2 cents per 100 pounds more than a main line point?

A. That is right.

Q. And what happened after the statute came along -- that is, in 1925?

A. In 1925 there was an amendment to the statute, and the Board's hearing in the general freight rate investigation, which caused the Board to issue its general order No. 448 in 1927 directing the railways to reduce the rates on grain and flour from branch line stations to the same level, mile for mile, as the stations on the main line.

Q. Yes, and can you see that from Exhibit 51? Can you take an example?

A. Yes, from Exhibit No. 51 I can take the first station on that exhibit, namely, Weyburn, Saskatchewan. It will be observed that on July 31, 1898, the day before the first part of the Crow's Nest reduction became effective, the rate from Weyburn was 23 cents per 100 pounds. Weyburn was a branch line station. On September 1, 1899 that rate was reduced to 20 cents under the Crow's Nest agreement, but the present rate from Weyburn is 19 cents per 100 pounds, and it has been at that level ever since September 1, 1927, I think the date was.

Q. There are other example on Exhibit 51





of where the rates are lower under the statute than they were -- that is, the statutory prescription of 1925 -- than they were under the Crow's Nest legislation?

MR. FRAWLEY: The Alberta rates are paper rates, are they not?

MR. SINCLAIR: Well, the same situation, in answer to my friend, can be worked out if he would like us to do so, somewhat differently on westbound traffic.

MR. FRAWLEY: Yes. I wondered why you used those Alberta rates because grain does not go --

MR. SINCLAIR: We just kept the thing flowing because the dividing point is somewhere around Swift Current.

THE ACTING CHAIRMAN: The freight-shed?

THE WITNESS: Yes, they work out in the other direction as well to the Pacific coast.

MR. SINCLAIR: Q. There would be no difference in the evidence you have given if you had taken an example eastbound, instead of an example westbound?

A. No, in principle I do not think so. The rates themselves might have been slightly different.

Q. Yes. Now, Mr. Edsforth, has the difference in respect of the rates under the Crow's Nest agreement and under the statutory prescription been commented on by any authoritative source?

A. Yes, it was commented on by the Turgeon Royal Commission on Transportation in its report issued in 1951.

THE ACTING CHAIRMAN: I do not know, Mr.





Sinclair, that this is the way to get this in. I do not know whether there is any objection. He can read the report, I suppose.

MR. SINCLAIR: Yes. Speaking for myself, I thought that what he was going to do was to paraphrase it and tell you where the full quotation is. I did not know that he was actually going to read an extract, but if he wishes to and nobody has any objection, then he may. I would have thought that his precis on page 17 would have served sufficiently.

THE WITNESS: I have no particular preference. I am quite willing to paraphrase it.

MR. SINCLAIR: Q. In your evidence it is paraphrased. I think that is what the Chairman is saying, that it is more proper for a witness to do it in that way.

A. Well, the Turgeon Royal Commission in commenting on this stated that by the 1925 amendment to the Railway Act Parliament put an end to the Crow's Nest agreement as such, and instead prescribed a statutory stabilization of certain freight rates binding on all railways.

MR. SINCLAIR: For the information of the Commission, the full quotation may be found at page 245 of the Commission's report.

THE ACTING CHAIRMAN: I think, Mr. Sinclair, for the record, it should be said that the amendment of 1925 followed the decision of the Supreme Court interpreting the Crow's Nest legislation --

MR. SINCLAIR: Yes.







THE ACTING CHAIRMAN: --- and fixing points to which it would be applicable in the West, and correcting a more or less chaotic situation.

MR. SINCLAIR: Yes. The Supreme Court, as more or less stated in the answer of Mr. Edsforth to the general question, showed that it would be applicable -- the Court held it would be applicable only to the shipping points on the line of Canadian Pacific at 1897, and you will recall the evidence of the witness that there were, I think it was, some 289 shipping points which would be handling grain under that agreement as against the some thousands that handle it at the statutory level. I think there are some 1,300 on the Canadian Pacific, and some 1,300 on the C.N.R.

THE WITNESS: That is right.

MR. SINCLAIR: Q. So instead of 289 stations there are some 1,326?

A. Yes.

Q. Now, Mr. Edsforth, as we know, and as in the case of the First World War, World War II came along and increased the operating costs of the railways which was caused by higher prices for materials and very much higher wages, and that led to the necessity for higher freight rates. Now, what have you got to say as to that?

A. That is true. Following World War II increasing costs of materials and higher wage rates led to the necessity for higher freight rates, and as a result following applications by the railways





the Board of Transport Commissioners authorized several general freight rate increases commencing on April 8, 1948, when a 21 per cent increase was authorized. Following that on June 16, 1950 there was an increase of 20 per cent. Now, there were some interim increases before the 20 per cent increase became fully effective. On February 4, 1952 there was a further increase of 17 per cent, again with interim increases intervening. On January 1, 1953 there was an increase of 9 per cent; on March 16, 1953 an increase of 7 per cent; on January 1st, 1957 an increase of 11 per cent; and on December 1, 1958 an increase of 17 per cent.

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Q. And that is the cumulative total?

A. The cumulative total on these increases is 157 per cent.

Q. Then, Mr. Edsforth, is this your evidence, then, that there was a parallel following World War I and World War II, in that there were general increases in freight rates arising out of the increased labour costs and material costs?

A. That is right.

Q. Now, was there any distinction between what occurred in regard to this application of the increased costs following World War I and World War II?

A. Yes indeed, there was a marked distinction.

Q. What was that?

A. Well, in the increases following World War I, which I described by going through Exhibit 49, the general freight rate increases authorized by the Board were applied to grain and grain products in Western Canada. In other words, the grain rates were increased along with all the other rates to meet changed conditions and increased cost of transportation. In other words, grain rates in Western Canada during this period therefore were bearing a share of increased transportation costs along with other traffic. During World War II and until 1947, freight rates were frozen under wartime price control. When general increases in freight rates were authorized in 1948 and in the subsequent years to meet increased costs no increase was allowed on rates on grain and grain products moving to export positions







in Western Canada. Therefore, the substantially altered conditions and increased costs of transportation arising during and following World War II have in no part been carried by the Western Canadian export grain traffic with a result that the railways and shippers of other commodities have been left to carry these additional costs.

Q. Now, Mr. Chairman and members of the Commission, in paragraphs 21 through 30 of the joint submission of the railways, which have been filed and marked as Exhibit 45, reference is made to and extracts quoted from a number of judgments of the Board, conciliation board reports and findings of Royal Commissions. Now, the first reference will be found in paragraph 21 of the joint submission of the railways and it is at page 250 of the report of the 1951, or the Turgeon Royal Commission on Transportation. Now, what is your comment on that, Mr. Edsforth, please?

A. Well, in the 1951 Royal Commission on Transportation, Canadian Pacific asked that Royal Commission to recommend that the fixed statutory rates on grain and grain products be abolished and those rates placed under the jurisdiction of the Board of Transport Commissioners, the same as all other rates. The problem of having a large segment of traffic exempted from assuming a share of increased costs of transportation was apparent to Canadian Pacific, as well as the fact that it would grow more serious. The Royal Commission did not





agree to the proposal of Canadian Pacific but instead, found that it was necessary that the rates be kept under the control of Parliament. They said that the time had not arrived for an upward revision of these rates, although the time might arrive when that would become advisable.

With your permission, Mr. Chairman, that position of the railway in 1951 should be placed in contrast with the position taken by the railways today, in which the rates to the farmers would remain under the control of Parliament, and that the difference between that and just a reasonable level of rate for moving traffic in question, would become the obligation of the people of Canada on a whole to the Western grain economy.

Q. Now, the second reference which is in paragraph 22, Mr. Chairman and members of the Commission, is from the so-called Rate Base -- Rate of Return Case, which is reported in 70 C.R.T.C. The extract is from page 265 of that judgment and it was decided in 1954. What the railways have brought to the attention of the Board were the difficulties of financing their operations and the need for a fair return on the net capital invested, and the Board refused to accept a rate base and a rate of return thereon as the only test of a just and reasonable permissive level of net rail earnings. What is your comment on the extract quoted at page 22 of the joint submission of the railways, Mr. Edsforth, please?







MR. FRAWLEY: I think I will register a general objection. I don't think the witness should be commenting upon the judgment of the Board of Transport Commissioners or the Supreme Court of Canada, or any other Court or even the conciliation committees and arbitration boards; they speak for themselves, and I have heard my friend Mr. Sinclair many times in this room say that the judgment of the courts speak for themselves.

MR. SINCLAIR: That is right, and this witness which I have, Mr. Chairman, speaks concerning that, and it is not that he is commenting on that in the sense except by putting them in juxtaposition with other facts, and if I used the word "comments" wrongly, I withdraw it. I am asking the witness -- I think it is of some assistance to the Commission to know what this experienced traffic officer from the traffic standpoint thinks of this in relation to the situation as it may exist.

THE ACTING CHAIRMAN: Well, there could be some objection, but go on, Mr. Sinclair.

MR. SINCLAIR: Q. Please, Mr. Edsforth?

A. Well, the Board in commenting on the evidence submitted by the railways concerning the return earned by certain United States railroads, pointed out a major difference between the situation existing in the United States and that existing in Canada. This major difference was the fact that in the United States, the railways earned their return from all segments of traffic, while in Canada,







rates on grain and grain products moving to export positions in Western Canada were at a fixed level and could not be changed. Therefore, the railways were forced to look to only a part of their freight traffic to carry the full amount of increased costs and the possibility of increased net earnings. At that time in 1954, the Board indicated concern as to the railway's ability to increase rates on certain segments of traffic without losing some of this traffic. At that time, the traffic officers of the railways were of the opinion that the rates could be increased without seriously affecting the volume of traffic.

Q. Notwithstanding, I take it, Mr. Edsforth, that it is your evidence that none of it was being applied to this large movement of Western grain?

A. That is right.

Q. Why?

A. Because of the statutory provisions.

Q. Now, later, Mr. Chairman and members of the Commission, in that year, 1954, the railways were involved in a serious dispute with their non-operating employees and a strike was avoided only by the agreement of the railways and the unions to the appointment of an arbitrator to settle the dispute. Now, reference is made to that in paragraph 24 of the joint submission, and I would ask Mr. Edsforth to deal with the railways' position there and comment as a traffic man in regard to the situation arising therefrom.

MR. FRAWLEY: I would like to make the





same specific objection to the proposal now to incorporate into the record some comments from Chief Justice Sloan, when he was acting not as Chief Justice Sloan but in some other capacity in connection with certain labour proceedings in 1954, and my objection is that whatever Mr. Justice Sloan said at that time was said in a proceeding which was entirely ex parte as far as the people of Canada were concerned, and as far as the people of Alberta and Western Canada are concerned --

THE ACTING CHAIRMAN: I think, Mr. Sinclair --

MR. SINCLAIR: It is already filed.

THE ACTING CHAIRMAN: It is filed, and you might ask Mr. Edsforth if, as a traffic man, he has any comment to make on that statement.

MR. SINCLAIR: That is exactly what I am doing, sir; I am not asking him to read it, and I do wish to put on the record that I had the honour of appearing for C.P. and C.N. in the proceedings in 1954 before Chief Justice Sloan, and they were difficult proceedings, and I must say that I saw no representative of the province of Alberta or any other Western province standing side by side with the railways in presenting any position before that Labour Board.

MR. FRAWLEY: Well, Mr. Sinclair, see if I did right on that; I was representing the people in Alberta and I doubt if I would have been allowed in.

MR. SINCLAIR: Try it.





MR. FRAWLEY: I had too much respect for the proceedings you were in at that time to barge in.

MR. SINCLAIR: Try it.

MR. SINCLAIR: Q. Mr. Edsforth, will you please let me have the comment, please?

A. Well, in appearing before the conciliation or this arbitration board, the railways pointed out to the arbitrator their financial problems, their difficulties, and stressed their lack of ability to pay increased wages and to assume increased labour costs. However, the arbitrator did award the employees improvement in their fringe benefits and in doing so, however, they recognized the difficult financial position of the railways and the restricting affect of the fixed statutory rates on grain. The Chief Justice also expressed that he was of the opinion that where the application of the fixed statutory grain rates results in a loss of rail revenues, this should be the responsibility of the national treasury.

Q. And as a traffic man, with some 30-odd year's experience, what is your attitude towards that?

MR. FRAWLEY: Oh no!

THE ACTING CHAIRMAN: He used the term, Mr. Sinclair, non-competitive as well as non-statutory, didn't he? Non-competitive rates as well as non-statutory?

MR. SINCLAIR: You are reading?







THE ACTING CHAIRMAN: At page 23.

MR. SINCLAIR: It is 24, sir.

THE ACTING CHAIRMAN: I am sorry, yes. I was looking at number 3.

MR. SINCLAIR: It is paragraph 24, where he dealt with the effect of the grain rates.

Now, my question to the witness was as to what was said, and it was pointed out that Chief Justice Sloan expressed the opinion that where the application of the fixed statutory grain rates results in a loss of rail revenues, this should be the responsibility of the national treasury, and my question to the witness, for the assistance of the Commission, as an experienced traffic man in the existing situation, is what would he say to that.

A. Under existing conditions I would agree with that.

Q. Now, Mr. Edsforth, the next major issue between the railways and their employees was the subject of an extended hearing before the Taylor Conciliation Board, and this report was issued in 1956, and that is referred to at paragraph 25 of the joint submission of the railways. Will you please give the Commission your comment on that proceeding?

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A. Well, again, during these proceedings considerable evidence was introduced by the railways as to their disabilities in meeting existing costs of transportation and of the difficulties that would be encountered in attempting to meet increased costs, and the railways drew the attention of the Conciliation Board to the results of the fixed statutory rates on grain and grain products as well as the increase that the railways were finding from competition, particularly from motor carriers, and the inability of the railways to spread increased costs over all freight traffic because of the statutory grain rates.

MR. SINCLAIR: Up to and in addition to the extract quoted from paragraph 25, I would like to quote the following from the Taylor Board where reference is made to the matter referred to by Mr. Edsforth in the finding of that Board:

"Whatever remedy the Government and the Parliament of Canada may consider appropriate and whether or not they consider any remedy necessary, the fact remains that the railways are, by statute, required to carry grain at an economic rate which causes them losses of many millions of dollars each year."

And further:

"It may safely be assumed that in the opinion of the Government and of Parliament, that this has been considered for the welfare of Canada's export industry and, therefore, for the welfare of the Canadian economy as a





whole."

Q. Now, Mr. Edsforth, what is your comment as a traffic man in regard to the extracts from that ---

MR. FRAWLEY: Of course, it is hard to follow one witness, and now we have to follow two witnesses, and Mr. Sinclair stops in part of Mr. Edsforth's statement. It is confusing.

MR. SINCLAIR: It may be confusing, but I intend to do it.

Q. Go ahead.

A. Well, to me that statement that you have just read appears to place the whole question of the statutory grain rates in western Canada in its proper perspective, that is, that the level of the rates paid by the grain growers in western Canada is felt by Parliament to be for the welfare of the Canadian economy as a whole. Unfortunately, for the railways, the result of this policy, while apparently being considered for the welfare of the whole Canadian economy, is not being shared in that manner but is in practice being borne in large measure by the Canadian railways. Therefore, while one segment of the economy is protected, the rail transportation portion of the economy is not, and this situation must eventually be reflected in the ability of the railways to provide Canada with an efficient rail transportation system.

Q. Now, the Taylor Conciliation Board, however, notwithstanding the submission of the railways that wage increases should not be recommended,







did recommend substantial increases in wages to the non-operating employees?

A. That is true.

Q. Collective agreements to carry out the report of the conciliation board were entered into by the railways and an application to increase freight rates to offset such increased costs was launched, and that application was dated May 15th, 1956, and, as the Board's Judgment will show, was not finally disposed of until 1957. Now, in the interim period, to which counsel, I think, for Manitoba referred yesterday, the Gordon Commission was studying Canada's economic prospects, Mr. Edsforth?

A. That is right.

MR. SINCLAIR: Reference, Mr. Chairman, is made to that in paragraph 26 of the joint submission of the railways.

Q. What are your comments concerning ---

THE CHAIRMAN: I think, Mr. Sinclair, that in all these we could pretty well have you file the joint submission, and I think we can conclude by this time that he thinks there is an inequity and it is iniquitous. You might at the same time have it adopted en bloc.

MR. SINCLAIR: I would like to get his comments on them one by one. I think they have, down through the years, shown a certain pattern, and we have here the Vice-President of Traffic of Canadian Pacific, and in this section of the brief he is the only witness on behalf of the railways.





THE ACTING CHAIRMAN: You are leading your case, and you are entitled to, Mr. Sinclair.

MR. SINCLAIR: I am sorry to delay you on a Saturday morning, but I do feel ---

MR. FRAWLEY: Well, I hope you don't delay us much longer.

MR. SINCLAIR: Well, if Mr. Frawley wishes to leave, he may leave and we won't feel insulted.

THE ACTING CHAIRMAN: Go ahead, Mr. Sinclair.

MR. SINCLAIR: Q. Would you please, Mr. Edsforth, give the Commission your comments concerning the inquiry by the Gordon Commission and its situation in regard to transportation and its findings thereto?

A. Yes. The Gordon Commission in that part of its report dealing with transportation recognized the essential role of transportation in any progress which the Canadian economy was to have, and they stated their findings in the matter of rates on grain and grain products moving into export positions in western Canada. The Gordon Commission stated that the railways should be allowed to earn a reasonable rate of return where the services were economically justified, that the public should pay directly for the public interest, and that the burden imposed on the railways by the statutory rates on grain and grain products could be lifted with the least distortion in the short run by a new charge on the public treasury.

Q. As a traffic man what is your position on that?





A Under present conditions, I would agree with that.

Q. Now, in the final Judgment of the Board of Transport Commissioners given in December, 1957, arising out of the application made in May, 1956, the railways were authorized to make a general increase of 15 per cent in freight rates in lieu of the two interim increases which had been made previously authorized under the application.

You were a witness at that proceeding, Mr. Edsforth, and would you tell the Commission what you have to say on that and with relation to the extracts in that Judgment as set out in the joint submission of the railways, paragraph 29?

A. Well, the railways, in presenting their application for the freight rate increases, explained to the Board their difficulties with meeting growing competition from trucks, and the railways acknowledged that there would be some erosion of the traffic and of the increase because of that competition. The Board, in their judgment, came to the conclusion that the difficulty of the railways was intensified by the fact that the grain traffic in western Canada was carried at statutory rates which could not be increased and which yielded revenue of only one-half cent per ton-mile compared with a general average far in excess of that figure.

Q. Has the situation improved since that time or not?

A. No, it has not improved.







Q. Again, in 1957, the railways were involved in proceedings arising from demands from Labour in which they were opposing increased labour charges, and there were long hearings and that culminated in the appointment of a Board headed up by a distinguished jurist of Regina, Saskatchewan, and after extensive hearings it issued its report, and that is referred to in paragraph 28.

What is your comment on that, Mr. Edsforth?

A. Well, as in the case of the previous conciliation board proceedings, the railways explained their situation with respect to revenues, and they took the position that they were unable to meet the demands of their employees because of their restricted earnings.

Q. Yes?

A. The Board, however, did recommend substantial increases in wages and came to the conclusion that the railways' financial difficulties were due to stiff competition and the fact that they were forced by public policy to haul enormous tonnages of freight at rates which they termed "wholly inadequate".

THE ACTING CHAIRMAN: He added by public policy or conditions over which they have no control. He doesn't specify statutory rates.

THE WITNESS: No.

MR. SINCLAIR: No, but he does point out the statutory rates very graphically.

Q. What is your comment on that, Mr. Edsforth?





A. Well, once more, an independent tribunal had recognized the railways' disability arising from the low, unremunerative rates on western grain traffic, but they said that the disability of the railways in this regard was a matter of public policy, one which could not be used to deny the claims of their employees.

Q. Arising out of the finding of the conciliation board and the increases flowing therefrom, certain action was taken by the railways in regard to freight rates?

A. Yes, that is right. The railways accepted the recommendations of the conciliation board subject to an authorization of a general increase in freight rates to meet the increased costs.

Q. Yes, and that is referred to in the extract which I particularly wish to draw to the attention of the Commission at this time, paragraph 29, and it is the Judgment of the Board of Transport Commissioners.

What is your comment on that, Mr. Edsforth?

A. Well, once more the Board of Transport Commissioners recognized the difficult financial situation of the railways and also their need for increased revenues to meet increased costs. They recognized, however, the disability of meeting increased costs from only a segment of traffic because of the exemption which the railways and the Board were forced to give to grain traffic where the rate level was fixed by statute. In that Judgment, I think it was





Commissioner Chase wrote at some length on the problem faced by the Board in fixing just and reasonable rates when the grain traffic could not bear any of the increase.

Q. And that is set out in full, his comments, Appendix F to the joint submission, the full comments of Commissioner Chase.

Yes, Mr. Edsforth, is there anything else you wish to add to that?

A. Only that the railways did acknowledge their difficulties arising from competition which was increasing and that their ability to secure revenues from general increases was becoming more difficult with each successive freight rate application.

Q. Do you wish to point that up in any way?

A. Yes. The situation is really pointed up by a comparison of statistics derived from the Board's Waybill Studies of intra-Canadian traffic. In the year 1951 grain and grain products moving in western Canada at statutory and related rates required a total of 27.1 per cent of the total ton-miles of freight service, and contributed 11.1 per cent of the total rate revenues.

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In 1958 the same traffic required 32.7 per cent of the total freight ton miles but contributed only 10.5 per cent of the total revenue.

Q. In 1954?

A. Well, in 1954 this traffic required 30.1 per cent of the ton miles of freight service and contributed 10.4 per cent of the freight revenue.

Q. That is about the same as in 1958, 10.4 - 10.5?

A. That is close to the same percentage proportion.

Q. Is there anything significant about that?

A. Only this, that the proportion of ton miles had increased by about 2-1/2 percentage points in 1958 while the revenue proportion did not change significantly.

THE ACTING CHAIRMAN: How much further would you like to go, Mr. Sinclair?

MR. SINCLAIR: I think I can finish by 1 o'clock.

THE ACTING CHAIRMAN: Very well, finish it up.

MR. SINCLAIR: Q. Very well, Mr. Edsforth.

A. Now, I also look at the traffic moving at non-competitive and non-statutory rates, that is traffic moving at the normal commodity rates and I find in the year 1951, again using the figures derived from the board waybill study this required 62.7 per cent of the freight while contributing 75.6 per cent or over three-quarters of the total freight revenue. In 1958, however, this traffic required





41.4 per cent of the total ton miles of freight service and contributed 52.6 per cent or just a little more than half of the freight revenue.

Q. Yes?

A. This shows the imbalance brought about by the exemption of this traffic from assuming any share of the increased cost of transportation.

Q. Yes?

A. On the other hand, it shows that the traffic moving at non-competitive and non-statutory rates, that is the normal rates which have been increased by all of the general freight rate increases authorized by the Board has shown a marked decline in terms of ton miles of revenue service performed, while the revenue contribution has shown a comparable decline.

Q. What has happened about the assuming any share of the increased cost of transportation?

A. Well, it has made it necessary that the costs not assumed by the statutory rated traffic had, in part, to be assumed by the railways themselves, while attempting to obtain the remainder from all other traffic. This in turn has made this other traffic increasingly susceptible to competition from other means of transportation and more particularly from motor trucks. With each succeeding freight rate increase a greater proportion of the railway's traffic becomes more vulnerable to this type of competition. It would not be right to say that the railways would not have faced this competition in





any event, the fact remains that if the statutory grain had assumed its share of the freight rate increases since 1948 the area of competition would have been much smaller than it has in fact become.

Q. What about 1959?

A. Well, our experience thus far in 1959 has fully supported their position before the Board that, notwithstanding the authorization of the Board to increase freight rates, it has been found necessary to reduce the level of rates on a substantial volume of traffic, below the increased level authorized, in order to prevent loss of that traffic to competing media of transportation. Further than that, the railways have had to allow some traffic to be lost to other forms of transportation.

Q. In taking that action would not the railways be suffering a loss like they are with respect to grain rates?

A. Oh no, you would not be reducing the rates below the proper cost of handling, that is for sure. The only thing is you do lose part of the increase that you had counted on and perhaps a little more of it.

Q. Would you go on as to how you see 1959?

A. Well, even with the freight rate increases that have been in effect since the beginning of 1959, Canadian Pacific does not expect to go anywhere near reaching the permissive level of net rail earnings authorized by the Board of Transport Commissioners. I think I have a question to be







answered for Mr. Commissioner Mann. With reference to your question, it is found in Order in Council P.C. 1863 of the 27th of July, 1918. That was the 25 per cent case.

COMMISSIONER MANN: Thank you very much.

THE ACTING CHAIRMAN: I think that now other counsel might arrange their order of cross-examination after Mr. Cooper. Mr. Cooper will start on Monday morning, and when he is finished then the rest of you will go on in order. We will adjourn now until 10.00 o'clock Monday morning.

--- Whereupon the hearing adjourned at 1 o'clock to resume at 10.00 a.m. Monday, December 7, 1959.



# ROYAL COMMISSION

ON

## TRANSPORTATION

HEARINGS

IN SENATE

OTTAWA

VOLUME No.

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NO EXHIBITS IN  
THIS VOLUME

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ROYAL COMMISSION ON TRANSPORTATION

Proceedings of hearings held in the  
Court Room, Board of Transport Com-  
missioners Offices, Ottawa, Ontario,  
on the 7th day of December, 1959.

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COMMISSION

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In the absence of The Honourable Mr.  
C. P. McTague, Q.C., Mr. M. A.  
MacPherson, Q.C., presided.





Ottawa, Ontario,  
Monday,  
December 7, 1959

---On resuming at 10.00 a.m.

THE ACTING CHAIRMAN: This morning, we had proposed to have a couple of rulings ready in respect of certain matters which have come up but unfortunately this is Monday morning which follows a Sunday and things have not been delivered to us by our secretaries so this will have to wait until tomorrow morning.

I think Mr. Wood wishes to put something on the record.

MR. WOOD: Mr. Chairman, I am appearing while Mr. MacKimmie is absent.

THE ACTING CHAIRMAN: Are there any other appearances? Yes, Mr. Sinclair?

MR. SINCLAIR: Mr. Chairman and members of the Commission, on Saturday when Mr. Edsforth was giving his evidence in chief at page 1442 of Volume 11 I asked him this question:

"Now, Mr. Edsforth, would you please state to the Commission concisely the history up to the year 1925 of rates applicable to the movement of grain and grain products from stations in western Canada to the export positions?"

Mr. Edsforth's answer is:

"Well, I think I have set it out as concisely as I can on page 1 to 16 of my memorandum of evidence, and I would like to have it





taken into the record as my answer."

I then, Mr. Chairman, asked your permission to tender it in that way and you said: "That is satisfactory." Unfortunately, the reporter then did not follow through and copy in that answer, so with your permission at the commencement of today's transcript I wonder if that question on page 1442 and Mr. Edsforth's answer and the first sixteen pages as I have stated them on page 1443 -- that is, commencing with the paragraph on page 1 starting: "In 1897 an agreement was reached..." down to "Actual mileage is also used on traffic moving through Churchill." which is on page 16 of Mr. Edsforth's precis -- be taken into the record and taken to be the question put to Mr. Edsforth and his answer to that question.

THE ACTING CHAIRMAN: Yes, Mr. Sinclair, and then it would mean that without question all that subject matter would be subject to cross-examination by counsel?

MR. SINCLAIR: Yes, as of right now. It is unfortunate that there was a misunderstanding, apparently, between myself and the reporters.

THE ACTING CHAIRMAN: Yes. Mr. Doherty?

MR. DOHERTY: Would it be in order for me at this stage to mention a mistake in the record?

THE ACTING CHAIRMAN: Surely.

MR. DOHERTY: On page 1244 of Volume No. 10, which is dated December 4, 1959 -- this is at the stage where I was presenting a statement on behalf of the Province of Saskatchewan -- a confusion







unfortunately arose. Mr. Dickson is reported as having said:

"Mr. Chairman and Commissioners, I appear for the Province of Saskatchewan."

And that of course was myself who was speaking. I suggest that where Mr. Dickson's name appears on pages 1244, 1246 and 1247 up to the statement just prior to where Mr. McKichan's name is shown -- in each of those cases I would ask that the substitution of my name be made for the name of Mr. Dickson.

THE ACTING CHAIRMAN: Yes Mr. Doherty.

MR. DOHERTY: I believe the following statement attributed to Mr. McKichan should be attributed to Mr. Dickson.

MR. DICKSON: Yes, I have discussed this with Mr. Doherty, and that is correct. The statements which are attributed to me on pages 1244 to 1247 should be attributed to Mr. Doherty, and those attributed to Mr. McKichan on pages 1247 to 1249 should be attributed to me. I might mention that a couple of names should be spelled correctly. Mr. McKichan's name is spelled M-c-K-i-c-h-a-n, and my name is spelled D-i-c-k-s-o-n.

THE ACTING CHAIRMAN: I think it will take some little time for the reporters to familiarize themselves with counsel. The mistake is quite understandable because we are fortunate in having a great array of eminent counsel here.

MR. DICKSON: Yes, Mr. Chairman.





DIRECT EXAMINATION BY MR. SINCLAIR (Cont'd):

Q. Now, Mr. Edsforth, would you please state to the Commission concisely the history up to the year 1925 of rates applicable to the movement of grain and grain products from stations in western Canada to the export positions?

A. In 1897 an agreement was reached between the Canadian Pacific and the Dominion Government whereby the Government would grant a subsidy toward the construction by Canadian Pacific of a line of railway westward from Lethbridge through the Crow's Nest Pass to Nelson. This agreement was made pursuant to a statute enacted by the Dominion Government in June, 1897. It provided for certain aid to the Company, on the one hand, but also imposed certain obligations on the Company, which are dealt with in "Memorandum Regarding 'Grants and Obligations with Respect to Construction of Crow's Nest Line'". The present memorandum is restricted to the traffic aspects of the Agreement.

From the traffic aspect, the importance of the Agreement relates to certain rate reductions, which were as follows:

1. A reduction in the present rates and tolls on grain and flour from all points on the Canadian Pacific main line, branches or connections west of Fort William to Fort William-Port Arthur and all points east, of 3¢ per 100 lbs. to take effect in the following manner:





(a) A reduction of  $1\frac{1}{2}\%$  per 100 lbs. on or before September 1, 1898.

(b) An additional reduction of  $1\frac{1}{2}\%$  per 100 lbs. September 1, 1899.

(c) That no higher rates than such reduced rates should be charged after the dates mentioned from the points aforesaid.

2. A reduction in rates on certain classes of merchandise from Fort William and all points east on Canadian Pacific to all points west of Fort William on the Canadian Pacific main line or on any line of railway throughout Canada owned or leased by Canadian Pacific as follows:

Upon all green and fresh fruits, 33  $1\frac{1}{3}\%$ ;

Coal oil, 20%;

Cordage and binder twine, 10%;

Agricultural implements of all kinds,  
set up or in parts, 10%;

Iron, including bar, band, Canada plates,  
galvanized, sheet, pipe, pipe-fittings,  
nails, spikes and horse shoes, 10%;

All kinds of wire, 10%;

Window glass, 10%;

Paper for building and roofing purposes,  
10%;

Roofing felt, box and packing, 10%;

Paints of all kinds and oils, 10%;

Livestock, 10%;







Wooden ware, 10%;

Household furniture, 10%;

These rates to take effect by January 1, 1898  
and no higher rates to be thereafter charged  
by Canadian Pacific.

The Crow's Nest line was built, and the reduced rates became fully effective on September 1, 1899.

Statement 100 shows from representative shipping points in western Canada rates on wheat to the Lakehead from July 31, 1898 to date. A comparison of the first and last columns shows a reduction of 3¢ per 100 lbs. or more.

The level of rates that became effective on September 1, 1899 remained in effect until 1903, at which time, because of an agreement made in 1901 between the Canadian Northern Railway and the Government of Manitoba, commonly known as the "Manitoba Agreement", certain reductions were made in the rates on grain and grain products by the Canadian Northern from points in Manitoba to the Lakehead. This Agreement was not binding on Canadian Pacific. However, as a result of negotiations between the Government of Manitoba, Canadian Pacific and Canadian Northern, Canadian Pacific agreed to a reduction in rates below the Crow's Nest level on the understanding that the full reduction under the Manitoba Agreement, which was then in effect on the Canadian Northern, would not be operative.

The Manitoba Agreement only covered rates from Manitoba shipping points to the Lakehead.





However, to maintain relationships from grain shipping points further west, relative but somewhat smaller reductions were made from stations in Saskatchewan and Alberta.

From 1903 until March 15, 1918, the general level of grain rates to the Lakehead as covered by the Crow's Nest Agreement, with the modifications following from the Manitoba Agreement, remained in effect, with related rates being established from new stations as branch lines were constructed and new territory opened up.

In 1917, due to increased operating expenses, particularly cost of materials, fuel and wages, the railways filed an application with the Board of Railway Commissioners for a general increase in freight rates. The Board granted an increase of 15% but in doing so took the position that it could not authorize any increase in the rates on grain and grain products from points in western Canada to the Lakehead which would result in these rates becoming higher than the level provided for in the Crow's Nest Agreement. The Board took the same position with respect to the westbound commodity rates also covered by the Agreement. The Board noted, however, that both the east-bound grain rates and the westbound commodity rates were at that time lower than the level covered by the Crow's Nest Agreement, such lower level being attributed to the so-called Manitoba Agreement. The Board did not consider that it was prevented by the Manitoba Agreement from authorizing a general increase





in freight rates and therefore allowed an increase of 15% on both the eastbound rates on grain and grain products to the Lakehead and on the westbound commodity rates from Eastern to Western Canada. The increase authorized was subject to a maximum of 2¢ per 100 lbs. on grain and grain products and subject to the level fixed by the Crow's Nest Agreement on westbound commodities as a maximum. (15% Case (1917) 22 C.R.C. 49).

Sir Henry Drayton, Chief Commissioner, at p. 68, dealing with the effect of the Manitoba Agreement, said:

"The mere fact that an agreement, in the light of changed circumstances, proves improvident and provides rates insufficient to enable the company's property to be properly kept up and to meet the current demands of transportation, also involves loss to the shareholders, is not an answer to the company's primary obligation to properly operate the road.

"It may well be that an agreement made by the directors elected by the shareholders cannot be set aside on the application of the shareholders themselves; but, on the other hand, it is clear that no agreement ought to stand in the way of the public as a whole obtaining the full benefit of that measure of transportation which a properly maintained condition of the company's facilities would permit.







. . . . .

"It is also apparent that an agreement which reserves an unremunerative rate applicable in the one district, involves a discrimination as against other districts where traffic and operating conditions are similar, and directly infringes on the provisions of the Act requiring uniformity in rates."

The reasoning of Sir Henry Drayton that it is prejudicial to the public when rates are unreasonably low and when rates are not changed to meet increased costs applies fully to the present situation which exists under the fixed statutory level on grain and grain products moving to export positions in Western Canada.

On July 16, 1918, by Order in Council P.C.1768, the Governor in Council expressed the opinion:

"That in view of the increased cost of living the wages in Canadian territory should be increased as increased in American territory by the award commonly known as the 'McAdoo' Award as the same may be from time to time amended or extended, in so far as the Government Railways Systems are concerned, and that it is advisable in the public interest that companies privately owned, should make similar increases to their employees."

The Order in Council provided further:





"That on the acceptance by the Canadian Pacific, Grand Trunk, Canadian Northern and other railway companies of the said 'McAdoo' schedule, the Board of Railway Commissioners be required to forthwith prepare a schedule of rates which will grant similar increases in railway freight rates in Canada to the increases already granted in American territory, effective as of August 1st, 1918."

The railway companies agreed to make the increases in wages to their employees under the terms of the "McAdoo" Award and the Board of Railway Commissioners was then directed to work out a schedule of increased rates in Canada comparable with the 25% increase authorized in the United States.

The Board of Railway Commissioners submitted its report to the Governor in Council who, by P.C. 1863, dated July 27, 1918, under the authority of the War Measures Act, directed a general increase in freight rates in Canada of 25%, with some exceptions. In Eastern Canada, this 25% increase was applied on top of the previously authorized increase of 15% but in Western Canada, the 25% was in lieu of the 15% increase.

Under P.C. 1863, the rates on grain and grain products from points in Western Canada to the Lakehead, instead of being increased 25% were increased by the same amounts as authorized for similar mileages in adjacent American territory; such increases to be applied in lieu of increases previously authorized in the 15% case. Therefore,





the rates on grain and grain products from Prairie points to the Lakehead were increased to the same extent as the rates for equal distance from Great Northern Railway stations in North Dakota and Montana to Duluth.

The increase in rates authorized by P.C.1863 became effective August 12, 1918 and thus for the first time since September 1, 1899 most of the rates on grain and grain products and the rates on the westbound commodities became higher than the level of rates fixed by the Crow's Nest Agreement of 1897. The effect of the increase from representative shipping points in Western Canada to the Lakehead is shown in the following table:

| <u>From</u>   | <u>Sept.1<br/>1899</u> | <u>Aug.12,<br/>1918</u> | <u>Percentage of In-<br/>crease in rates on<br/>Aug.12,1918,over<br/>rates in effect<br/>Sept. 1, 1899</u> |
|---------------|------------------------|-------------------------|--|
| Winnipeg      | 14¢                    | 14¢                     | --   |
| Regina        | 20                     | 24                      | 20%  |
| Swift Current | 22                     | 26                      | 18.2   |
| Medicine Hat  | 24                     | 28                      | 16.7   |
| Calgary       | 26                     | 30                      | 15.4   |

A revision of the Railway Act came into effect on July 7, 1919. One of the amendments in the new Act was the addition to Section 325 of a new subsection (5) as follows:

"Notwithstanding the provisions of section three the powers given to the Board under this Act to fix, determine and enforce just and reasonable rates, and to change and alter rates







as changing conditions or cost of transportation may from time to time require, shall not be limited or in any manner affected by the provisions of any Act of the Parliament of Canada, whether general in application or special and relating only to any specific railway or railways, and the Board shall not excuse any charge of unjust discrimination, whether practised against shippers, consignees, or localities, or of undue or unreasonable preference, on the ground that such discrimination or preference is justified or required by any agreement made or entered into by the company: Provided that this subsection shall remain in force only during the period of three years from and after the date of the passing of this Act."

It will be noted that the effect of this amendment was to set aside the Crow's Nest Agreement, so far as it related to the level of rates, for a period of three years or until July 6, 1922.

In 1920 the railways applied to the Board for a further increase of 40% in freight rates. The application was based on the need of the railways for additional revenues consequent upon a decline in their net earnings caused by an increase in operating costs and increase in labour costs arising from the application of what was known as the "Chicago Wage Award" to Canadian railway employees.

The Board by its Judgment (40% Case (1920) 26 C.R.C. 130) authorized the following increases in





freight rates effective September 13, 1920. In Eastern Canada 40% until December 31, 1920, thereafter 35%. In Western Canada 35% until December 31, 1920, thereafter 30%. Trans-Continental commodity rates 33 1/3%. Between Eastern and Western Canada the rates to be increased in accordance with the increases authorized on the Eastern and Western factors, that is, the factor East of Port Arthur to be increased 40% and west of Port Arthur 35% subject to adjustment to 35% and 30% respectively on December 31, 1920.

The increases so authorized were applied to the rates on grain and grain products from points in Western Canada to the Lakehead as well as on the westbound commodities covered by the Crow's Nest Agreement.

The effect of the increase from representative shipping points in Western Canada to the Lakehead is shown in the following table:

| From          | Rate in Effect |              | Percentage of increase in Rates on Sept.13,1920 over rates in effect Sept.1,1899 |
|---------------|----------------|--------------|--|
|               | Sept.1 1899    | Sept.13 1920 |  |
| Winnipeg      | 14¢            | 19¢          | 35.7%  |
| Regina        | 20             | 32½          | 62.5   |
| Swift Current | 22             | 35           | 59.1   |
| Medicine Hat  | 24             | 38           | 58.3   |
| Calgary       | 26             | 40½          | 55.8   |

It will be noted that the grain rate to the Lakehead from Regina, which was by this time the centre of the grain growing area, was 62.5% over the Crow's Nest level of rates.





The Board ordered a general reduction in freight rates of approximately 10% effective on December 1, 1921, which was applied to the rates on grain and grain products and to the westbound commodities covered by the Agreement (10% Reduction Case, 27 C.R.C. 131).

Under the amendment to the Railway Act which came into effect on July 7, 1919, the rate provisions of the Crow's Nest Agreement were suspended for three years. The three years expired on July 6, 1922. Prior to that time, in May 1922, a Special Committee of the House was appointed to inquire into the question of transportation costs with particular regard to the effect of rates established by the Crow's Nest Agreement on Canadian National and other railways and upon agricultural development and Canadian industries generally.

In reporting its findings to the House, the Special Committee stated that: Because of many unknown factors which entered into a consideration of this matter, such as the precise general effect of rate reductions upon railway traffic and its influence in stimulating business and producing railway revenues: The probable future wage reductions in connection with railways and when they would become effective: The probable degree of deflation in the costs of materials used by the railways: And the action to be taken by the Board of Railway Commissioners or the Government on certain Provincial applications then before them, it was difficult for







the Committee to approximate the effect of the Crow's Nest Agreement if put into operation, or its effect on the future action of the Board of Railway Commissioners with respect to other commodities. The Committee stated further that conditions relative to a consideration of this question were changing, or were likely to change, so rapidly that conclusions then made would soon be found unreliable.

The hampering effect of fixed statutory rates on rate making generally was recognized by the Committee in that part of its report as follows:

"Fixing rates by legislation is no doubt generally a bad principle, because it hampers the free action of the Board of Railway Commissioners and may create a discrimination in favour of the commodities covered by statutory rates. The Crow's Nest Pass agreement was enacted before the institution of the Board. This board, created in 1903, have been charged by the Parliament of Canada with the duty of regulating railway rates and of establishing just and reasonable railway rates. It is the only body in Canada equipped for the determination of the intricate matters relative to railway rate making. The matter of the Crow's Nest Agreement becoming effective or being suspended is related to other concrete railway rate issues either pending or imminent. The one reacts upon the other, and both upon the whole freight rate structure which must,





within a short period of time, undergo many substantial changes. The question would seem to be largely one that can best be treated by one body, the Board of Railway Commissioners."

While recognizing that all matters relating to rates could best be treated by the Board of Railway Commissioners, the Committee nevertheless recommended the suspension of the Crow's Nest Agreement, except in respect to grain and flour, for one year, from July 6, 1922, with power to the Governor in Council to suspend for a further period of one year.

Mr. A. W. Currie, in the second edition of "Economics of Canadian Transportation", reviews the Committee's findings and at page 78 concludes:

"In any case, the problem was decided from the standpoint of politics rather than economics".

Following the Report of the Special Committee Chapter 41, Statutes of Canada, 1922, was enacted reading as follows:

"1. Subsection five of section three hundred and twenty-five of the Railway Act, 1919, shall, notwithstanding the proviso thereof, remain in effect until the sixth day of July, 1923, and may be continued in force for a further period of one year by order of the Governor in Council published in the Canada Gazette; Provided that, notwithstanding anything herein or in said subsection five contained, rates on grain and flour shall, on and from the sixth day of July, 1922,





be governed by the provisions of the agreement made pursuant to chapter five of the statutes of Canada, 1897".

The effect of this legislation was to continue for one year definitely until July 6, 1923, and for a further period of one year if so ordered by the Governor in Council the suspension of the rates fixed under the Crow's Nest Agreement on westbound commodities. The rates on grain and flour on and from July 6, 1922, were restored to the level set out in the Crow's Nest Agreement. That is the grain rates were reduced from representative shipping points as follows:

| From          | Rate in Effect |              | Percentage Reduction in Rate |
|---------------|----------------|--------------|------------------------------|
|               | July 5, 1922   | July 6, 1922 |                              |
| Winnipeg      | 17¢            | 14¢          | 17.6%                        |
| Regina        | 29             | 20           | 31.0                         |
| Swift Current | 31             | 22           | 29.0                         |
| Medicine Hat  | 33½            | 24           | 28.4                         |
| Calgary       | 36             | 26           | 27.8                         |

Under this legislation, the Crow's Nest Agreement basis of rates on grain and grain products was re-established on July 6, 1922 from shipping points which were stations on the Canadian Pacific at the time of the signing of the Agreement. From stations not on Canadian Pacific at the time of the signing of the Agreement, the railways re-established rates which were effective prior to March 15, 1918. In general, the rates from main line stations not on Canadian Pacific at the time of the signing of the







Agreement were the same as the Crow's Nest rates from stations on the main line, but from branch lines were on a higher basis varying from 1¢ to 3¢ per 100 lbs. as shown on Statement No. 101. The level of rates shown in Column 3 remained in effect from these branch line points until September 12, 1927.

The suspension of the Crow's Nest rates on westbound commodities was continued by the Government to July 6, 1924. No further extension was granted and therefore on July 7, 1924, the westbound commodities were restored to the level set out in the Crow's Nest Agreement.

In filing the tariffs, the railways restricted the reduced rates to movements from and to stations which were on the Canadian Pacific in 1897. The result of the strict application of the rate provisions of the Crow's Nest Agreement was that origin and destination stations on Canadian Pacific which were in existence in 1897 received lower rates than were applied on the movement of the same commodities from and to all other stations. This led to many complaints to the Board of Railway Commissioners alleging unjust discrimination and the Board disallowed the tariffs which restored the Crow's Nest rates on the westbound commodities. (Re Crow's Nest Pass Rates (1924) 29 C.R.C. 238).

In giving their judgment the Board expressed the opinion, with Commissioners McLean and Oliver dissenting, that the powers granted to the Board under the Railway Act of 1903 were not





affected by the Crow's Nest Agreement, and that as the rates published in conformity with this Agreement resulted in discrimination, they should be disallowed. Acting on this Order, the railways cancelled the Crow's Nest Rates on the westbound commodities. However, the Board's Order cancelling the rates was stayed by Order in Council P.C.2220 on December 25, 1924. Therefore, the Crow's Nest basis of rates was restored effective January 9, 1925, but limited as to application in accordance with the tariffs filed by the railways on July 7, 1924. The Prairie Provinces then appealed to the Supreme Court of Canada.

Governments of Alberta, Saskatchewan and  
Manitoba v C.P.R. (1925) S.C.R. 155.

Questions submitted and answers thereto are found at pp. 161 and 173 respectively:

Question 1: Whether, as a matter of law, the Board is empowered, under the jurisdiction conferred upon it by the Railway Act, or otherwise, to authorize railway rates upon the railway of the Canadian Pacific Railway Company in excess of the maximum rates referred to in the Crow's Nest Pass Act, being chapter 5, 60-61 Victoria, Statutes of Canada and in the agreement therein referred to, upon the commodities therein mentioned.

Answer: No.

Question 2: If the court shall be of opinion that the Crow's Nest Pass Act or agreement is





binding upon the Board of Railway Commissioners for Canada, then, according to the construction of the Crow's Nest Pass Act, section 1, Clause (d), and the agreement made thereunder.

- (a) Are the rates therein provided applicable to traffic westbound from Fort William and from all points east of Fort William now on the Canadian Pacific Railway Company's railway; or, are such rates confined to westbound traffic originating at Fort William and at such points east of Fort William as were, at the date of the passing of the Act and (or) the making of the agreement, on the company's line of railway?

Answer: Part 1. No.

Answer: Part 2. Yes.

- (b) Are such rates applicable to traffic originating at points east of Fort William which were, at the date of the passing of the Act and (or) of the making of the agreement, on any line of the railway owned or leased or operated on account of the Canadian Pacific Railway Company?

Answer: In order that the traffic provided for by clause (d) should fall under that clause it must originate at Fort William or some point east thereof which at the date of the agreement was "on the company's







railway".

- (c) Are the rates therein provided applicable to traffic destined to points west of Fort William which are now on the Canadian Pacific Company's railway, or on any line of railway owned or leased or operated on account of the Canadian Pacific Railway Company?

Answer: In order that the rates prescribed in Clause (d) should apply the destination of traffic otherwise within that clause must be a point which was, at the date of the agreement, "on the company's main line or on (some) line of railway throughout Canada owned or leased by or operated on account of the company".

- (d) Are such rates confined to traffic destined to points west of Fort William which were, at the date of the passing of the Act or the making of the agreement, on the Canadian Pacific Railway Company's railway, or on any line of railway owned or leased by or operated on account of the Canadian Pacific Railway Company?

Answer: Yes.

Question 3: Whether, as a matter of law, the Board is empowered, under the jurisdiction conferred upon it by the Railway Act, or otherwise, to authorize rates upon the Canadian Pacific Railway on grain and





flour from all points on the main line, branches, ~~and~~ connections of the company west of Fort William, to Fort William and Port Arthur, and all points east, beyond the maximum rates specified in the Crow's Nest Pass Act and Agreement, and referred to in Chapter 41, Statutes of Canada (1922).

Answer: No.

The Supreme Court clearly pointed out that the rates provided by the 1897 Agreement operated prejudicially to the public interest and resulted in unjust discrimination. Anglin C.J.C. at p. 171 stated:

"On the contrary Parliament, which was in reality one of the contracting parties stipulating the terms on which it would grant the subsidy, may tomorrow reconsider and re-adjust those terms and relieve the other contracting party from the obligations it incurred; and it is not to be supposed that Parliament would hesitate to exercise its powers for the correction or amendment of legislation which is found to operate prejudicially to the public interest."

And further at p. 174:

"If, under the existing law, unreasonable rates must be imposed or unfair discrimination sanctioned, with the resulting chaos and other ill effects so graphically portrayed in the opinion of Mr. Commissioner Boyce, the remedy lies with the High Court of





Parliament. By amending the existing law it may either itself do, or may empower and require its delegate, the Board, to do as full and complete justice as circumstances admit."

As Parliament was in session at the time it promptly took action which in its view would correct the situation at that time and enacted what are now subsections (6) and (7) of Section 328 of the Railway Act.

The change in the statute made the level of the rates as set out in the Crow's Nest Agreement applicable to the movement of grain and flour moving eastbound from all points on all railways in Western Canada but regulation of the rates on the westbound commodities, which were no longer to be governed by the provisions of the Crow's Nest Agreement, was left to the Board of Railway Commissioners.

Parliament, by means of the 1925 amendment to the Railway Act, went far beyond the provisions of the Crow's Nest Agreement with respect to the rates on grain and flour. It imposed that level of rates not only on shipments moving from points on the Canadian Pacific which were in existence at the time the Agreement was made but also to all stations on all lines of railway then in existence or which might be subsequently added. The effect of the wider application of the fixed level of rates by the Statute can best be appreciated by the fact that in 1897 Canadian Pacific operated 3,949 miles of railway and published rates on grain and grain products







from 289 stations on its lines west of Fort William. Today, Canadian Pacific operates 11,209 miles of railway in Western Canada and publishes rates on grain and grain products from 1,313 stations to the Lakehead. In addition, at the time of the Agreement, there were no rates on grain and grain products published by any other railway to the Lakehead. Today there are rates published from 1,332 stations on the Canadian National Railways and 128 stations on the Northern Alberta Railways. The grain crop in Western Canada in 1897 was 32 million bushels. In 1958, it was 829 million bushels.

By Order in Council P.C. 886 of June 5, 1925, the Board of Railway Commissioners was directed to make a full and complete investigation into the rate structure of railways. Among the matters considered by the Board in making this investigation was the question of rates on grain and grain products from branch line points as compared with rates from main line points in Western Canada to the Lakehead. At the time of the Crow's Nest Agreement, and in the period subsequent thereto, rates were established from stations on the branch lines which were on a higher level than rates from main line points.

The Board ruled that rates on grain to the Lakehead both from branch line stations which were in existence at the time of the Crow's Nest Agreement and stations added after that time were to be on the same mile for mile basis as the rates from stations in existence on the main line of the Canadian Pacific





at the time of the Agreement. The result was to reduce the rates from branch line stations added after the Agreement to the main line basis provided under the Agreement and also to reduce the rates from certain branch line stations which were in existence at the time of the Agreement below the level provided for those stations by the Agreement.

Illustrations of this are shown in Statement 102. It will be noted that the rate from Weyburn to Fort William which on July 31, 1898 was 23¢ and was reduced to 20¢ effective September 1, 1899, was further reduced on September 12, 1927 to the present level of 19¢ per 100 lbs., that is, 1¢ per 100 lbs. below the level provided by the Agreement. From Saskatoon to Fort William the rate on July 31, 1898 was 29¢; on September 1, 1899, following the Crow's Nest Agreement, became 26¢; and on September 12, 1927, was reduced to the present level of 22¢, that is, 4¢ below the level provided by the Agreement.

Mention has been made of the rates on grain and grain products which are related to the Crow's Nest rates to the Lakehead. So far as Canadian Pacific is concerned, these related rates are those applying on grain and grain products to Pacific Coast ports for export and, in so far as Canadian National is concerned, to Churchill, Man. and to Pacific Coast ports for export.

At the time of the Crow's Nest Agreement, there were no export rates on grain and grain products published from stations in Western Canada to





Vancouver or other Pacific Coast ports or Churchill, Man.

With the opening up of the Prairie Provinces to agricultural development, there subsequently developed an export movement of grain and grain products through the Pacific Coast ports and to provide for such movement, export rates on grain and grain products were first published by the Canadian Pacific Railway on December 21, 1908. Initially, rates were published from Alberta shipping points only. The basis used in publishing these rates was to apply the same mileage level of rates as covered by the Crow's Nest Agreement to the Lakehead but based on constructive mileages to Vancouver worked out as follows:

- From shipping point to Canmore - actual mileage
- From Canmore to Revelstoke - two miles for each  
mile of actual haul
- From Revelstoke to Yale -  $1\frac{1}{2}$  miles for each mile  
of actual haul
- From Yale to Vancouver - actual mileage.

This constructive mileage worked out at over  $1\frac{1}{2}$  miles for each mile of actual haul from Canmore, Alta., through to Vancouver, or a constructive mileage factor of 334 miles. Subsequently, rates were published on a similar basis from origin points in Saskatchewan.

Effective March 15, 1918, these rates were increased by 15% but not to exceed 2¢ per 100 lbs. (15% Case (1917) 22 C.R.C. 49).

Effective August 12, 1918, the rates were increased by 25% with a maximum of 6¢ per 100 lbs.







This increase was made in lieu of that made on March 15, 1918, that is, the 25% applied to the rates in effect prior to March 15, 1918. (Order in Council P.C. 1863, July 27, 1918).

From August 12, 1918, until the Crow's Nest basis of rates was restored in 1922 on grain shipments to the Lakehead, the related rates for export movements of grain and grain products to Pacific Coast ports were changed along with the rates to the Lakehead. However, in 1920, the constructive mileage for Canadian Pacific shipments, which prior to that date was 334 miles, was reduced to 236 miles. From 1922 until the Board issued Order 448 in July, 1927, there were numerous complaints, hearings and appeals arising from differences between the export basis through Pacific Coast ports and the rates applicable on movements to the Lakehead. As a result of the Order of the Board, British Columbia ports received the same rates, mile for mile, on grain and grain products traffic moving for export as did similar traffic moving to the Lakehead except a constructive mileage factor continued to be recognized, but only to the extent of 123 miles. On Canadian National actual mileage from Edmonton to Vancouver is used in developing related grain rates to Pacific Coast ports. Actual mileage is also used on traffic moving through Churchill.

THE ACTING CHAIRMAN: You are now finished with Mr. Edsforth, Mr. Sinclair?

MR. SINCLAIR: Yes.





CROSS-EXAMINATION BY MR. COOPER:

Q I would like you to direct your attention to the precis of evidence which you have filed and which is now part of the transcript from pages 1 to 16 commencing at the point indicated by Mr. Sinclair and ending at the point indicated by him, and I would also like to direct your attention to the joint submission, Exhibit 45.

A. Yes, Mr. Cooper, I have that.

Q. Mr. Edsforth, I refer to the Agreement in the joint submission, Exhibit 45, which appears at page 39; that is, the Crow's Nest Pass Agreement, so called.

A. Yes, sir.

Q. It is dated September 6th A.D. 1897, and is made pursuant to the statute which is reproduced as Appendix A at page 36 of Exhibit 45?

A. Yes.

Q. Now, would you agree, Mr. Edsforth, that the effect of the Crow's Nest Pass Agreement might be briefly stated to be that in return for a cash subsidy the Canadian Pacific Railway reduced freight rates on the chief export of the region -- that is, grain -- eastbound and on settlers' requirements inbound, and that these concessions were made without any time limit?

A. Yes, that is so.

Q. What do you consider to be the reasons, Mr. Edsforth, why the railway entered into this Crow's Nest Pass Agreement?





A Well, Mr. Cooper, the reason for the agreement was that the company desiring to build a railway into this area, and were unable to do so from their own finances at that time, so they had to get assistance.

Q. I am suggesting to you that welcome as the subsidy might have been that was not the only reason why the Canadian Pacific Railway would want to build that line?

A. The company did not build a railway just to get a subsidy, of course not.

Q. For what other reasons did they build the line, in your view?

A. Well, they felt they wanted to penetrate this territory, Mr. Cooper, with a railway line.

Q. Why did they want to penetrate the territory at that time?

A. It gave evidence of being productive of traffic.

Q. What were the evidences that it would be productive of traffic?

A. There had been quite an upsurge in mineral development in that area, and so much so that some of the United States lines were evincing an interest to build in there.

Q. Is it correct to say that one of the reasons for wanting to build the line was to stave off American competition?

A. It may be so, but I think primarily







the company was interested, as a railway must always be, in putting lines into a territory which they think will produce traffic.

Q. At that time, of course, the Canadian Pacific had obtained its land grant of 25 million acres, I believe?

A. Yes, I think that was the figure.

Q. The West was opening up?

A. Yes.

Q. The railway was interested in getting settlers into the territory?

A. Oh, yes.

Q. And I suppose it would be of advantage in carrying out such a programme to be able to assure settlers that their grain could move out at certain fixed rates, and their effects could move in at certain fixed rates?

A. Well, I do not think that the railway had to make that concession for that reason, sir, did it? The railway would be at liberty to adjust its rates as in its judgment would develop the territory.

Q. But they could not adjust their rates on grain eastbound, and settlers' effects inbound, after the Crow's Nest Pass Agreement was entered into?

A. I beg your pardon, sir; I did not hear that.

Q. The railway could not adjust its rate on grain eastbound, and on the westbound commodity,





so-called, after the Crow's Nest Pass Agreement was entered into?

A. They could not increase them, sir.

Q. Exactly. Now, I direct your attention, Mr. Edsforth, to the tenth covenant of the railway under the Crow's Nest Pass Agreement, and that covenant is set out at pages 43 and 44 of Exhibit 45?

A. Yes, that is right.

Q. The tenth covenant reads in part as follows, and I quote:

"A reduction shall be made in the general rates and tolls of the company as now charged, or as contained in its present freight tariff, whichever rates are now the lowest, for car-loads or otherwise, upon the passage of merchandise hereinafter mentioned, westbound, from and including Fort William and all points east of Fort William on the company's railway to all the points west of Fort William on the company's main line, or on any line of railway throughout Canada owned or leased by or operated on account of the company whether the shipment is by all-rail line or by lake and rail, such reduction to be to the extent of the following percentages respectively, namely:-- . . ."

That is the end of the quotation, and then follows seven commodities which I believe are commonly referred to as the westbound commodities?

A. Yes, that is right, they are so described.





Q. I would take it, Mr. Edsforth, that the most important of the commodities mentioned is "agricultural implements, of all kinds, set up or in parts."

A. That would be a most important one indeed, yes.

Q. And I take it that the railway did reduce its rates on the commodities therein mentioned?

A. That is right, in accordance with the agreement.

Q. Are the Crow's Nest Pass rates still in effect on those westbound commodities?

A. No, they are not, sir.

Q. When did they cease to be in effect, finally?

A. Finally in 1925. I think I have the date right here.

THE ACTING CHAIRMAN: July 23rd.

THE WITNESS: Yes, July 23rd, I think it was.

MR. COOPER: Q. What happened on July 23rd, 1925, whereby these westbound commodities were no longer subject to Crow rates?

A. That followed, sir, an amendment to the statute, the Railway Act, which provided that the Board in fixing and determining just and reasonable freight rates should not be governed by any agreement made or entered into.

Q. So since 1925 the westbound commodities have been moving on a basis under which they are freed entirely from the Crow's Nest Pass rates?

A. That is so.







Q. ...I suggest then in this statute of 1925 amending the Railway Act, to which you have referred, although statutory rates on grain were imposed on the railway nevertheless the railway obtained an advantage by having these westbound commodities free from Crow rates?

A. Well, they certainly obtained this advantage that they were free to move the rate as conditions required.

Q. Yes. Well, now, do you know the rates on agricultural implements in, let us say, January of 1925 moving from Toronto to Regina?

A. Yes, I think I have those here. I beg your pardon; I have not got them for January 1925.

Q. What dates have you got them for, Mr. Edsforth?

A. Well, I have the rates in 1924.

Q. Yes, what were the rates then?

A. On agricultural implements?

Q. Yes.

A. From Montreal or Toronto, did you say?

Q. Well, I mentioned Toronto to Regina, but if you wish to take Montreal or some other point that is all right.

A. I have Toronto to Regina.

Q. Yes?

A. It was 97 cents.





Q. Do you know how long that rate continued?

A. Well, I think it went out the next day. Wait a minute now. July 7, 1924. Just give me a few moments and I will get you the dates. I have the reference here.

Q. Perhaps I could shorten it; my instructions are that effective January 9, 1925, the rate was 97 cents per hundred pounds, Toronto to Regina?

A. Yes. Well, you see, there was a period in there and I think I described it on page 10 of my precis of evidence. The Crow's Nest westbound rates were restored to their level of 1899 on July 7, 1924, but they were then suspended by the board, so the railway were not permitted to charge those rates.

Now, that suspension was stayed by an Order in Council of December 25, 1924.

Q. That is Order in Council, P.C. 2220, as referred to on the last line of your precis of evidence?

A. That is right, and then following that Order in Council the westbound commodity rates, the Crow's Nest basis, was restored on January 9, 1925.

Q. And therefore the Crow rate was 97 cents?

A. Yes.

Q. Then, after the amendment to the statute was passed in 1925, was there a change in that rate?

A. Yes, that rate was then restored to its level prior to July 7, 1924.

Q. \$1.28?





A. I haven't got the figure here, I am sorry.

Q. Well now, what has been generally the trend on rates on agricultural implements since the amendment to the Railway Act in 1925?

A. Oh, there have been reductions and increases.

Q. What is the rate today?

A. The rate today from Toronto to Regina -- this becomes a little complicated because of the bridge subsidy.

Q. Take the normal rate and then the bridge subsidy.

A. The normal rate is \$3.19, and then the rate reduced by the bridge subsidy, that is, the rate the shipper pays, is \$2.89.

Q. Well, that is an increase from 1925, then, from 97 cents to \$3.19 normal, or taking into account the bridge subsidy, \$2.89, I think you said.

A. Yes, it is an increase from a short period in 1925, Mr. Cooper; that is, from January to July, that is when that 97-cent rate applied.

Q. The 97-cent rate was in effect on January 9, 1925?

A. Yes, it was.

Q. And after the amendment to the statute the rate became \$1.28?

A. I will have that checked sir, I haven't got that right with me.







Q. And it is now \$3.19 normal and \$2.89 taking into account the bridge subsidy.

A. Yes, that is so.

Q. And I suppose there is no dispute, Mr. Edsforth, in this proposition, that the weight of agricultural implements is much different today than it was in 1899?

A. If you take the individual unit that is so, Mr. Cooper.

Q. I suppose it is the case of hay rakes as against farm tractors and combines, and that sort of thing?

A. Yes, I think so. There is quite a difference in the price, too.

Q. And quite a difference in the freight rate?

A. Yes.

Q. Mr. Edsforth, have you made any calculations at all as to the increased revenue the railway have received on this matter of agricultural implements by reason of the fact that Crow rates have not applied since the revision to the Railway Act in 1925?

A. No, I haven't made any such calculation Mr. Cooper.

Q. Have you made any such calculation with respect to the other westbound commodities referred to in the tenth covenant in the agreement?

A. No, no specific calculation, sir, and the revenues as they have moved from time to time





with changing conditions.

Q. Would it be fair to ask if you could estimate any such increase.

A. From what period?

Q. Well, I want from 1925 to date, for those years. Perhaps that is not a fair question, and if it is not I will not press it.

MR. SINCLAIR: I would wonder if my learned friend has in mind that they would only apply to the 289 stations in Western Canada that were in effect in 1897, pursuant to the Supreme Court judgment, and wouldn't apply to any of those commodities to the balance of 1,300 stations that would be on C.P.

THE ACTING CHAIRMAN: Mr. Sinclair, I don't know that that makes really so much difference because the shipping facilities through the West are limited, and probably would be in existence in 1899. Most of the implements, for instance, in Manitoba go to Winnipeg, and Winnipeg was in existence in 1899, and most of these, I think probably 90 per cent, go to Regina for Saskatchewan, and likewise to Calgary.

MR. SINCLAIR: Well, sir, I would certainly defer to your knowledge of the West and particularly to Saskatchewan, but there are place in Saskatchewan I think that are pretty large machinery distributing areas that do get shipments direct from the East, and what you are suggesting would be that they would bring them to Winnipeg or to Regina and pay a combination of locals beyond, but what I am pointing





out is that I think from the question being asked it is pretty near impossible to accomplish that because you don't know the pattern of the traffic, and I was just wondering if my friend had that in mind, and I don't think, sir, that you could calculate it by saying some of the machinery would move to the points that were in existence, and then calculate the distinctions beyond with a combination of the Crow rate up to a point and then the variable combination beyond to all those stations; I think it is impossible.

THE ACTING CHAIRMAN: I think, perhaps, the answer is that which Mr. Edsforth gave us, he couldn't give an answer to the question.

MR. SINCLAIR: Yes, and I just thought so that we would have it focused right that the stations are one of the major difficulties and restrictions that would apply.

MR. COOPER: Q. I think the witness can answer the question or he can't, and that is the end of it, and if he would indicate which is the case, if he has not already done so.

A. There would be great difficulty encountered, and you would have problems of determining from what stations it moved, whether they were or were not covered under the agreement, and I could visualize a great deal of difficulty getting a proper figure.

Q. I understand your answer to be it might be done, but it would be very difficult.

A. I don't even know whether it can be







done.

Q. All right. The class of agricultural implements move now, I believe, under class rates?

A. No, we have commodity rates in Canadian Freight Association Tariff 5J. At least, that is my information.

Q. Those commodity rates are equivalent to the class 40 rates, the old sixth class.

A. They could be the old sixth class; I think that is right. I might point out to Mr. Cooper that in the intervening years we have accorded a stop-off in transit privilege for those implements, they can be unloaded in transit, which I think is a great advantage to the receiver of agricultural implements in the West.

Q. And you are suggesting that has been taken into account in raising the rate?

A. No sir, not at all; that was simply to enable the traffic to move freely so that the people could get their implements.

Q. I refer you, Mr. Edsforth, to page 2 of your precis of evidence, and the reference there to the Manitoba agreement.

A. Yes.

Q. You also referred to the Manitoba agreement in your evidence on Saturday, which appears at page 1445 of the transcript, and you stated at page 1445, and I am quoting your answer to a question, "The Canadian Pacific was not a party to that agreement, but subsequently through negotiation it did





agree to make adjustments although not at the same level as the Manitoba Agreement had called for."

A. Yes.

Q. What, roughly, did the Manitoba Agreement call for?

A. The Manitoba Agreement as entered into between the Government of Manitoba and the Canadian Northern Railways called for a reduction of 4 cents per hundred pounds in the rates on grain and flour from points in Manitoba to the head of the lakes.

Q. What were the actual reductions made by the C.P. at that time? Perhaps you have already stated that, and if so you might give it again.

A. The reductions made were these, sir; the same reduction of four cents per hundred pounds from points Winnipeg and east to Fort William, I think the figure -- that was on wheat and flour -- and three cents per hundred pounds on what we term the coarse grain. Then, from points Winnipeg and West, the reduction was three cents per hundred pounds on wheat and flour, and two cents on the coarse grains. That was as far as the Manitoba points were concerned.





you agree with that?

A. Yes, I agree with that. The commodity rates and class rate were reduced, and west of that it was 7-1/2 per cent.

Q. Do you have a copy of the agreement there?

A. Yes, I have.

MR. COOPER: I would ask my friend Mr. Sinclair to put it in.

MR. SINCLAIR: I would be glad to do that at a later time.

MR. COOPER: I am not suggesting it be put in right now. It could be put in at a later time.

MR. COOPER: Q. I refer again to Professor Currie on "The Economics of Canadian Transportation" at page 49 to complete the matter with which I was dealing. "In 1910 the Board removed the remaining 7-1/2 per cent by which tolls in Saskatchewan and Alberta exceeded those computed on the Manitoba basis". I think they made it 15 per cent, the same as Manitoba.

MR. SINCLAIR: So that we will be able to find it, Mr. Cooper, you are reading from Dr. Currie's second edition, 1959 edition. You said the first edition. The first edition was some time earlier than that.

MR. COOPER: I am reading actually, Mr. Sinclair, from the first edition. We may be on the same page.

MR. SINCLAIR: I never thought Dr. Currie would put out a second edition and not change the page. It takes these railway economists to confuse you.







MR. COOPER: I think it is the first 40 or 50 pages which are not changed.

THE ACTING CHAIRMAN: It is early in the book.

MR. COOPER: Yes.

Q. On page 3 of the precis of evidence you referred to the judgment of Sir Henry Drayton and the 15 per cent Case of 1917, or which was reported in that year.

A. Yes.

Q. Am I correct in my understanding that this judgment related only to the Manitoba Agreement andnot to the Crow's Nest Pass?

A. Well, Sir Henry Drayton's comments related to the Manitoba Agreement, that is right.

Q. I think you commented on the effect of that judgment on the present situation where you have statutory rates on grain?

A. Yes. Well, Sir Henry Drayton found that in looking at the 15 per cent increase he could not increase the rates above the level called for by the agreement of 1897, but he did not feel he was so confined with respect to the Manitoba Agreement.

Q. I am suggesting that perhaps the application of the reasoning of a judge or a chief commissioner in one case in other circumstances might at least be a matter of argument and perhaps of law.

A. Yes. When I quoted it I simply pointed out what the conclusion I drew from it was with respect to the Crow's Nest Rates today.





THE ACTING CHAIRMAN: You were talking as a traffic man.

THE WITNESS: Yes, indeed, sir.

MR. COOPER: Q. I refer you to Exhibit 49, and there are just one or two questions with respect to it that I would like to ask to clarify my understanding of your evidence which you gave on Saturday. I refer specifically to column 7.

A. Yes.

Q. And the increases listed there with respect to various points of origin. Am I correct in my understanding that these rate increases were the result of Order in Council 1863 under the War Measures Act?

A. Yes.

Q. That Order in Council or an extract from it is set out in the joint submission?

A. Yes, as appendix "D", I think it is.

Q. It is appendix "C".

A. "C", is it?

Q. Page 49.

A. Yes, an extract from it, Mr. Cooper.

Q. Do I also understand correctly that the increase effective September, 1920, shown in Exhibit 49 was made possible because of a revision of the Railway Act in 1919?

A. Yes, that is correct.

Q. And if you will relate that to your precis, I think the matter is on pages 5 and 6.

A. Yes.

Q. I just want to tie in that evidence with





your precis of evidence what you stated on that point on Saturday morning and as it appears in the transcript.

A. Yes, sir.

Q. I refer you to page 1451, Mr. Edsforth, of the transcript of your evidence of Saturday, and you state there, and I quote:

"The 1925 amendment to the Railway Act which was fully implemented by 1927, superseded the rate provisions of the Crow's Nest Agreement and substituted a fixed statutory basis for grain rates moving to all export positions in Western Canada".

That is the end of that part of your evidence which I am quoting. I would like you to explain the words "which was fully implemented by 1927". Just explain what you mean by that.

A. What I mean by that, sir, is following the amendment to the Railway Act in 1925 the Board of Transport Commissioners was required by Parliament to make a general freight rate investigation and, as a result of their investigation, they issued their general order number 448 in 1927 requiring the railways to reduce the rate on grain and flour moving to Pacific coast ports for export to the level of the Crow's Nest rates to Fort William and they also required the railways to reduce the rates on grain and flour from the branch line points to the same level as the main line points, all of which, as I interpret it, was required by the amendment to the







statute.

Q. General order No. 448, then, is, I see, set out as Appendix "E" to the joint submission Exhibit 45.

A. Yes, that is the general order.

Q. I take it that Exhibits 50 and 51, then, Mr. Edsforth, are related to those changes in the grain rate structure, if I may use that expression, brought in by general board order No. 448.

A. Yes, they are illustrative of the rates that were in effect from branch line stations as compared to main line stations before the Board's general order 448, that is they were on a higher level mile for mile, which is shown in Exhibit 50, and Exhibit 51 shows what transpired following the Board's general order 448 when the rate from the branch line stations were reduced.

Q. On page 1453 of the transcript you referred to the grain crop in Western Canada in 1897 as being 32 million bushels.

A. Yes.

Q. In 1958 it was 829 million bushels, and then you were asked a question:

"That is the crop grown and not the cropped shipped?"

And your answer was: "No, that was not the crop shipped. That was the crop grown." Have you the figures for the crop shipped?

A. Yes.





Q. Could you let us have those?

A. Yes. The crop shipped in 1958 was 373,443,060 bushels.

Q. That is the figure for C.P.R. only?

A. No, I think that is all railways.

Q. That is all railways?

A. Yes.

Q. In paragraph 24 of Exhibit 45, that is the joint submission, reference is made to the Sloan Arbitration Award dated November, 1954. You personally took no part in those proceedings, did you, Mr. Edsforth?

A. No, I took no part in that proceeding.

Q. And, similarly, you took no part personally in the Taylor Conciliation Board proceedings mentioned in paragraph 25?

A. I took quite an active part in that proceeding, yes.

Q. To what extent?

A. I was traffic witness in that proceeding.

Q. Were you a witness or did you participate in any way in the activities of the Royal Commission on Canada's economic prospects, usually referred to as the Gordon Commission?

A. No, I was not a witness in that.

Q. Mr. Edsforth, we have heard quite a lot since this inquiry commenced about compensatory rates, and I should like to ask you, as a highly experienced traffic official, a question: What is a compensatory rate?





A. A compensatory rate is one that provides not only the cost, the variable cost of handling it, but also its proportion of the constant cost; in other words, that returns its total cost.

Q. Did you say "a proportion" or "its proportion".

A. Its proportion.

Q. There are other views, are there, on this question of compensatory rates?

A. Of course, that is what is really, I would say, a fully compensatory rate. You cannot always get the full proportion of contribution, but every rate must carry something more than its variable rate, ~~make~~ its contribution, what contribution it can.

Q. Are you making a distinction between a full compensatory rate and a compensatory rate.

A. I make a distinction that every rate cannot make the same contribution, some make more than others. It depends on the nature of the traffic.

Q. But you understand a compensatory rate to be at least high enough to cover its variable cost and its proportion of constant cost.

A. And whatever proportion it can contribute, and a fully compensatory rate is one which takes care of its full proportion of constant costs.

MR. COOPER: That is all, thank you.

THE ACTING CHAIRMAN: Now, I think before we call on provincial counsel, the Commission would like, with so many eminent counsel, that they try to organize outside the court room the work that







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(Cooper)

will be done so that we will not have repetition by  
counsel. Of course, I know enough about this counsel  
business to know that one must carry out instructions  
and it is important that you cover the instructions,  
but I am thinking of cutting down unnecessary work  
for the reporters and for the Commission. Now, I am  
sure that counsel will find Mr. Cooper and Mr. Cumming  
most co-operative and helpful at all times, and if  
you have now arranged who is to go first, we will  
hear the first counsel.

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MR. FRAWLEY: Apropos of what you have just said about endeavouring to cut down unnecessary cross examination, that is an admirable objective. However, there is a very practical difficulty because you have to go away by yourself and prepare notes for cross-examination, otherwise you would have no notes at all. Now, to the extent that it can be done and sometimes it happens the following counsel will be guided by the material that has been covered by his predecessor and to that extent there will always be a great deal of benefit. It is not too practical to endeavour to name one counsel who will endeavour to cross-examine.

THE ACTING CHAIRMAN: I realize that and have made due allowance for it, but if all counsel will act with their conscience guiding them as to what should be done --

MR. FRAWLEY: As Mr. Edsforth's cross-examination, Mr. Doherty, counsel for Saskatchewan will lead off to be followed by Mr. Mauro and to be followed by myself to be followed by Mr. Brazier and then counsel for the grain companies.

THE ACTING CHAIRMAN: I think it may be useful to the Commission if, in this connection, all counsel advise Mr. Frawley who might act as spokesman for the other counsel as to how they wish to proceed. Mr. Doherty is first.





CROSS-EXAMINATION BY MR. DOHERTY:

Q. Mr. Chairman, I have a few questions I would like to ask Mr. Edsforth on behalf of the province of Saskatchewan. Mr. Edsforth, I wonder if you would first look at page 1 of the joint C.N.R. submission which is filed as Exhibit 45. In paragraph 3 in the second sentence you say:

"Financially sound railways are essential to the economic well being of Canada."

I wonder if you would agree with me, Mr. Edsforth, that financially sound major segments of the Canadian economy such as the grain growing interests on the Western plains are also essential to the economic well being of Canada?

A. Oh yes, I do not think I can argue about that. I am quite sure that all segments of the economy should be financially sound if we are to have a good economy.

Q. Now, may I direct your attention to the first page of your precis of evidence in the second paragraph about the third sentence down and it starts with:

"It provided for certain aid to the Company, on the one hand, but also imposed certain obligations --"

Now, is it not a fact, Mr. Edsforth, that the C.P.R. entered into the Crow's Nest agreement







on a completely voluntary basis? There was no compulsion as I understand it.

A. No, they were not compelled to build the line although the Parliament of the day was quite anxious that they should.

Q. Would it be correct to say that perhaps the C.P.R. were quite willing to enter into the agreement?

A. Well, I cannot say how willing they were to enter into the terms of the agreement.

Q. My purpose in the question is, I am wondering about the word "imposed". "Imposed" to me seems to imply there is some obligation or something of a statutory nature and if this is, as I understand it to be, a contractual obligation would it not be correct to say that you accepted certain obligations?

MR. SINCLAIR: I would like to draw to my friend's attention that the persons whose signatures appear on this happen to be lawyers, it is not Mr. Edsforth, and if the language is not such as he likes I and my friends will take the responsibility for it.

MR. MAURO: Oh no, he is referring to the precis of evidence.

MR. SINCLAIR: Oh, I am sorry.

MR. DOHERTY: Q. Now all I am doing is questioning the use of the word "imposed" which I suggest should probably be "accept". I just want to draw the use of the word to the attention of the Commission and there may be some difference of





opinion as to it.

A. In my opinion they were imposed, those conditions.

Q. Now, in going to the bottom of that same page the last paragraph on that page you are speaking of reductions in the present rate and tolls on grain. Now, do you consider that the railways regarded this reduction as a substantial concession?

A. Yes, I think it was.

Q. You think it was a substantial concession?

A. Yes.

Q. That would lead me to believe if the railways considered these substantial reductions it would be unlikely they would consider reducing the rates any lower.

A. You mean the Canadian Pacific would be unlikely to consider reducing the rates any lower?

Q. Yes, if they regarded it as a substantial concession then it would be rather unlikely that they would consider reducing it to a lower rate.

A. At that time in any event -- of course, conditions can change.

Q. But in fact they did reduce these rates later by reason of -- arising out of the Manitoba Agreement, although the C.P.R. were not a party to the Manitoba Agreement, as a result of that agreement the C.P.R. did in fact make some further reductions.

A. That is what I mean by changing conditions.





Conditions changed to the extent that the Canadian Northern Railway entered into an agreement to reduce their rates in Manitoba and while the C.P.R. was not a party to the agreement they eventually adjusted their rates along the same line although not to as low a level from points west of Winnipeg.

Q. As far as I have been able to understand there has been no indication that when these rates were reduced to a proper level the C.P.R. was in a position -- these rates presumably should be a proper return to the railway even at the reduced level.

A. Back in 1910 I could not say -- I don't know whether they could be considered at a proper level or not but they were certainly below the Crow's Nest level, that is certain.

Q. As I understand, at that time there was some indication that the public thought that the rates on movement of grain were perhaps too high. Is it not possible that might follow from the provisions of the agreement that the railways may have had to consider some reduction in the rates?

A. In 1897?

Q. Yes, I am thinking of 1889 having in mind the fact that the railways were anxious to move to make movement west, and it is possible it seems to me that they might have considered some reduction to move the grain.

A. I do not know that they did, I have no information on that.







THE ACTING CHAIRMAN: Rent and taxes are always so high.

THE WITNESS: That is right, sir.

THE ACTING CHAIRMAN: Income tax too.

MR. DOHERTY: Q. Now, may we look together at page 2 of the precis and down at the bottom of the first portion of the page after you listed the items which have been said to have had effects we have this statement:

"These rates to take effect on January 1st, 1898 and no higher rates to be thereafter charged by Canadian Pacific."

A. Yes.

Q. Now, it is my understanding that this was a contractual obligation of the C.P.R.

A. At that time, yes.

Q. And the contractual obligation, would you agree that it was a contractual obligation in perpetuity, that is to say, for all time.

A. Yes, that is the way it reads, "to be thereafter charged".

Q. Then, quite apart from any statutory obligation which we may have at the present time, the C.P.R. was obliged by clauses 10 and 11 of the agreement to carry the merchandise referred to in the agreement at the reduced rates for all time.

A. Yes. And following the suspension on the question of the railway track which terminated





the agreement for a three-year period and a two-year voluntary suspension after that by the Government, the C.P. did restore those rates from the regions in Eastern Canada to the destinations in Western Canada which were in existence at that time the contract was made, the agreement was made. But, that led to so many difficulties, so many complaints of unjust discrimination that the Board said the C.P.R. could not do that, could not restore the rates to the 1898 level. Following that the Supreme Court made their finding in the effect that Canadian Pacific was quite correct in its interpretation of the agreement. Then Parliament changed the law.

Q. These difficulties I am referring to, Mr. Edsforth, were not difficulties which were occasioned by the fact that after the period of suspension of the Crow's Nest Agreement the C.P.R. published tariffs which applied only to those stations which were on the C.P.R. main line at the time of the agreement, is that correct?

A. Not necessarily the main line, on the C.P.R. line in effect at the time of the agreement.

Q. Now, in actual fact the C.P.R. had voluntarily extended the Crow's Nest rates to other points on the main line?

A. You mean the west bound commodity rates?

Q. No, I am thinking of both on east bound and west bound.

A. What period are you talking of now?





Q. I am thinking of the period, I am not sure I have the right date but approximately 1903 to 1918.

A. Yes.

Q. So that when we came to the period around 1925 when the C.P.R. published the tariffs they did not in fact return the same level of rates as had existed prior to 1918. That is, they did not make it apply to all stations, just on some stations.

A. All the stations covered by the agreement.

Q. Now, in the second last paragraph on page 2 of your precis you refer to the C.P. having agreed to a reduction in rates?

A. Yes, that is right.

Q. Now, this agreement reduced the rates below the level of the Crow's Nest rate at that time?

A. That is right.

Q. Now, would this not be some further indication that the Crow's Nest rates were not in fact regarded by the C.P.R. as a burden, in fact reduced the rates?

A. They did reduce the rates. Of course, it was in a different position in 1903 than what it is in 1959. Whether they regarded them as a burden or not, I cannot say, but there was a situation brought about by the Canadian Northern under the Manitoba Agreement and an adjustment was made at that time. Whether they were considered a burden or not, then I could not say.

Q. Perhaps it is a matter of opinion?







A. It could be.

Q. If I might refer you to the last paragraph on page 2 of the precis in which you say:

"However, to maintain relationships from grain shipping points further west, relative but somewhat smaller reductions were made from stations in Saskatchewan and Alberta."

A. Yes.

Q. I find some difficulty in appreciating the significance of this. My understanding is that the rates you seek were higher?

A. Yes.

Q. Now, would it not be correct perhaps to say that these reductions were relative but somewhat larger?

A. No, they were smaller, a smaller amount per hundred pounds.

Q. They were actually smaller?

A. Yes, they were.

Q. I find a bit of difficulty appreciating that statement having in mind the fact that the Western rates are higher.

A. For instance, the rate from Winnipeg was reduced by four cents on wheat but from Regina just two cents.

Q. So that is a smaller reduction in cents?

A. Yes.

MR. SINCLAIR: Or dollars.





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THE WITNESS: Or percentage added.

MR. DOHERTY: May we look together at page 3  
of the precis, the first full paragraph --

MR. SINCLAIR: Mr. Chairman, perhaps before  
Mr. Doherty goes on --

THE ACTING CHAIRMAN: Yes, Mr. Doherty, might  
we have a recess now?

--- Recess.

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MR. DOHERTY: Q. Mr. Edsforth, I was just about to direct your attention to the statement on page 3 of the precis, the first full paragraph where it reads:

"From 1903 until March 15, 1918, as a general level of grain rates to the lake head is covered by the Crow's Nest agreement with the modifications following from the Manitoba Agreement, remained in effect, with related rates being established from new stations as branch lines were constructed and new territory opened up."

A. Yes.

Q. May I also direct your attention to the joint brief, which is Exhibit 45, to paragraph 8 on page 3.

A. Yes, I have it.

Q. Starting at about line 6 it reads:

"The reduction in the rates on grain and flour brought these rates below the level of the Crow's Nest rates and Canadian Pacific for competitive reasons lowered its rates to this level. These reductions remained operative until March, 1918 ..."

My question is that in the preceding evidence the implication is that the rates at the Crow's Nest levels were in effect during this period. Is it not a fact that rates below the Crow's Nest level







were in effect?

A. No, I think it says right in the paragraph -  
the first paragraph on page 3:

"... the general level of grain rates  
to the lakehead as covered by the Crow's  
Nest agreement with the modifications  
following from the Manitoba Agreement,  
remained in effect ..."

Q. That is, in effect, below the level of  
the Crow's Nest rate?

A. That is right.

Q. Now, may I direct your attention to the  
bottom of paragraph 2 near the top of page 3 of the  
precis. This is the paragraph we were just dis-  
cussing.

A. Yes.

Q. It says:

"... with related rates being es-  
tablished from new stations as branch lines  
were constructed and new territory opened  
up."

A. Yes.

Q. I believe you have already said that the  
Canadian Pacific had in fact applied these Crow's  
Nest level rates to the stations as they opened  
up?

A. That is right.

Q. In other words, they did not restrict  
themselves to stations on the line at the time of





the agreement?

A. No, that is true. From the period up to 1918 that is quite correct. These would be branch lines, and they were put in on the branch line level which, generally speaking, was higher than the main line level.

Q. This was not required under the actual agreement. The Canadian Pacific had done this, I understand, voluntarily, and I understand it was a quite logical arrangement.

A. Yes, they applied the general level of rates on grain from new stations as they opened up; that is right.

Q. Now, I refer you to page 3, and to the last sentence in the last paragraph in the middle of the page. It is the paragraph which starts:

"In 1917 ..."

And going down to the last sentence it reads:

"The increase authorized was subject to a maximum of 2 cents per 100 pounds on grain and grain products and subject to the level fixed by the Crow's Nest Agreement on westbound commodities as a maximum."

A. Yes.

Q. I wonder, Mr. Edsforth, if you would be good enough to explain just what the result of that was? It is a little difficult to understand just





what the result was.

A. Well, the result was that the rates on grain to Fort William were increased by a flat two cents per 100 pounds while on the westbound commodities the 15 per cent of increase was applied, but the weights were not to exceed the rates on the westbound commodities as fixed by the agreement of 1897.

Q. May I refer you to the next paragraph on that page, the one right at the bottom of page 3 and continuing over to page 4. You are referring there to Sir Henry Drayton, the Chief Commissioner, and you quote certain statements made by him. I believe when Mr. Cooper raised this question you said that the C.P.R. was not in fact a party to these Manitoba Agreements.

A. No, that is right; we were not.

Q. At the bottom of the quotations there is a paragraph which reads:

"The reasoning of Sir Henry Drayton that it is prejudicial to the public when rates are unreasonably low and when rates are not changed to meet increased costs applies fully to the present situation..."--

MR. SINCLAIR: "... which exists under ..." -- would you go on reading it?

MR. DOHERTY: Q.

"... which exists under the fixed statutory level on grain and grain







"products moving to export positions in  
Western Canada."

Now, this, Mr. Edsforth, is your interpretation  
of what Sir Henry Drayton had said?

A. No, only this, that I said the reasoning  
that he applied in discussing the Manitoba Agreement  
certainly seems to meet the present situation when  
rates are not changed to meet increased costs as  
the fixed statutory grain rates are not in Western  
Canada.

Q. This statement is not then based on your  
interpretation of the paragraphs quoted immediately  
before?

A. Well, I do not know what you mean by  
"interpretation" exactly, Mr. Doherty.

Q. My point, Mr. Edsforth, is having read  
the quotation on page 4, I find some difficulty in  
reaching the conclusion that you have. I appreciate  
it is probably just a matter of interpretation,  
and all I wish to point out is that there might be  
some difference of opinion as to what Sir Henry Drayton  
had said.

A. Well, he said what it says there,  
and he said it is clear that no agreement ought to  
stand in the way of the public as a whole from obtaining  
the full benefit of that measure of transportation  
which a properly maintained condition of the company's  
facilities would permit. Then he went on to say:





"It is also apparent that an agreement which reserves as an unremunerative rate applicable to the one district, involves a discrimination as against other districts where traffic and operating conditions are similar, and directly infringes on the provisions of the Act requiring a uniformity in rates."

In other words, Sir Henry said it is prejudicial to have rates unreasonably low; it is prejudicial to the public and it is also prejudicial to the railways because it does not enable them to maintain their facilities in a proper condition.

Q. Would it not be perfectly fair to say that what Sir Henry had said is that the C.P.R. are obliged to maintain their railways in a proper state, and the public should expect that, and this notwithstanding the fact that the C.P.R. may be saddled with what they --

THE ACTING CHAIRMAN: I think, Mr. Doherty, there is not much use arguing with Mr. Edsforth. He has his view, and you cannot convince him otherwise. You can argue your construction later.

MR. DOHERTY: Thank you, Mr. Chairman. I just wish to point out that there may be some difference of opinion as to what the proper interpretation is.

THE ACTING CHAIRMAN: Yes.





MR. DOHERTY: Q. May we go along to page 5, and the first full paragraph on that page at about line 8. You are referring to the application of the increases, and you say that in Western Canada the 25 per cent was in lieu of the 15 per cent increase?

A. Yes.

Q. Am I correct in my understanding that at this time the rates in Western Canada were higher than in the East, and would it be reasonable to say that what the attempt being made here was to prevent some discrimination by applying a lesser percentage to the Eastern rates than to the Western rates?

A. Well, it was a step towards equalization, I believe. We have said that many times in the past, that this was a step towards equalization.

Q. Then, were you referring to the McAdoo Award in your precis? This, in fact, was a Government directive that this increase be added, was it not?

A. Do you mean the freight rate increase?

Q. Well, the increase under the McAdoo Award?

A. Well, the increase under the McAdoo Award was directed against the Government railways, and the hope was expressed that the other railways would do the same thing, and if they did, then the Board should be directed to prepare a schedule of freight rate increases similar to that in the United States.

Q. So that the overall result has arisen by reason a Government directive to pay the wage







increase under the McAdoo award?

A. Yes, the Government directed the Government railways.

Q. This, in fact, was the first increase in the Crow's Nest rates?

A. Yes, this was the first time the rates became higher than the level called for by the agreement of 1897.

Q. And the authority was issued under the War Measures Act?

A. Yes.

Q. It was during a national emergency?

A. Yes, we were in a state of war.

Q. It could hardly be said, could it, that we have at the present time such a situation -- that is, a state of national emergency such as was referred to in this situation?

A. Well, I do not know. Of course, this was a wage increase, and we have those still.

Q. But we are not in a state of war?

A. No, we are not in a state of war.

Q. And the War Measures Act is a dormant statute at the present time?

A. Yes, at the present time -- fortunately.

Q. So we can hardly say that we can consider the War Measures Act in granting an increase at the present time?

A. No, of course it could not have anything to do with an increase at the present time, but I would direct your attention that following this, after





the War Measures Act became inoperative, as I understand it, in 1920, which was two years after the war ended, a further increase of 40 per cent was authorized on the grain.

Q. Was that not then under --

A. I am sorry; it was 35 per cent on the Western grain.

Q. Would that not be by virtue of some extensions of the War Measures provisions?

A. No, it was because the Railway Act had been amended in the meantime.

Q. It had become a statutory provision?

A. Well --

THE ACTING CHAIRMAN: These are questions of law which probably Mr. Edsforth --

MR. SINCLAIR: He is doing extremely well, sir.

MR. DOHERTY: May I go on --

MR. SINCLAIR: He is showing tremendous knowledge of many things here.

MR. FRAWLEY: He has been exposed to Mr. Sinclair for so long.

MR. SINCLAIR: I will take that as a compliment. I have been exposed to Mr. Edsforth, which is the truth.

THE ACTING CHAIRMAN: He is a very good witness, anyway.

MR. DOHERTY: Q. The effect, if I may go back to the Order in Council, was to relieve the C.P.R. of this so-called burden under its contractual





obligations under the Crow's Nest agreement?

A. The effect of the War Measures Act and of the freight rate increases that were authorized under it was to enable the railways to meet the increased cost of transportation brought about by a wage award.

Q. But it did, in fact, release them from their obligation under the Crow's Nest Agreement for that time?

A. Well, I do not know how far you can go with that. It certainly permitted them to increase their rates to a higher level; yes, I will say that.

Q. May we look together, Mr. Edsforth, at page 6 --

THE ACTING CHAIRMAN: Of the precis?

MR. DOHERTY: Yes, of the precis, Mr. Chairman.

Q. Now, in paragraph 3 -- this is the second last paragraph -- it is again speaking about the application of a percentage increase?

A. Yes.

Q. This is, perhaps, a similar question to the one I asked you before, but it seems to me the reason why there was a small percentage applied in the case of Western grain was because the Western rates were still higher?

A. It was another step towards equalization, that is right.

Q. On pages 7 and 8 you are referring to the Special Committee of the House appointed in







1922, and at the bottom of the page there is a sentence which begins:

"Because of many unknown factors which entered into a consideration of this matter, such as the precise general effect of rate reductions upon railway traffic and its influence in stimulating business and producing railway revenues..."

It would seem to me here that the committee is simply supporting the proposition that a rate reduction does stimulate the rail revenues, or produce additional traffic?

A. Yes.

Q. Would you agree with this?

A. But the committee said they could not estimate the effect of it just at that time.

Q. But they did suggest a reduction in rates could be productive of additional revenues and additional traffic?

A. Sometimes that is so, but sometimes it is not. It does not always follow.





Q. Then, going on to the next paragraph in the same page, that is page 8 of the precis, there is a paragraph that begins, "The hampering effect of fixed statutory rates on rate making generally was recognized by the Committee in that part of its report", and then you say in your report of the Committee's findings at the bottom of the page, "the Committee nevertheless recommended the extension of the Crow's Nest Agreement, except in respect to grain and flour, for one year, from July 6th, 1922, with power to the Governor in Council to suspend for a further period of one year."

A. Yes.

Q. There may be some difficulties connected with this, with the interpretation of this section, but it would seem to me what in fact the Committee did was to restore the Crow's Nest rates on grain and flour?

A. That is right, that was their recommendation.

Q. Now, may I refer you to the first paragraph on the top of page 9 of the precis in which you are commenting on Mr. Currie's remarks in his book on "Economics of Canadian Transportation" where he says, "'In any case the problem was decided from the standpoint of politics rather than economics.'"

Now, would it not be possible that when Mr. Currie speaks here of politics, he may have had in mind the national policy; would that be reasonable?





A. He may have, I don't know.

Q. You don't deny that may be possible?

A. Mr. Currie, of course, had his own views as to what he was saying, and I don't know what he considered.

THE ACTING CHAIRMAN: The less politics we have here, probably the better. It is a naughty word.

MR. DOHERTY: Q. If we may now proceed to page 10 of the precis and in these pages you are speaking of the period, I think, in about 1924 and 1925, and you refer to the railways filing certain tariffs?

A. Yes.

Q. As I understand it, these tariffs were restoring the Crow's Nest rates in so far as they were operative from points on the railway at the time of the agreement, is that correct?

A. That is the westbound commodity rates you are now referring to?

Q. Yes.

A. It is the first full paragraph on page 10.

Q. I was really referring to the whole effect of the tariffs; did they not apply to both eastbound and westbound?

A. Eastbound they only applied to grain and flour; westbound they applied to a number of commodities.

Q Then, later on in the paragraph you say, "This led to many complaints", and I wonder if it would be true to say that the C.P.R. could possibly







have anticipated applying tariffs in this limited fashion, that that may have led to that?

A. I don't know what they could anticipate; all they did was go by what the agreement called for.

Q. That was a different situation than the situation as of 1918 when these rates applied to all stations?

A. The westbound rates you are talking of now?

Q. I am thinking of the eastbound.

A. Well, I don't think the complaints were about the eastbound rates, Mr. Doherty; this had only to do with the westbound commodity rates.

Q. Would it be possible that the C.P.R. might have anticipated there might have been some difficulties in the application of those rates?

A. They may have, I suppose, I don't know.

Q. So that the C.P.R. in publishing the tariffs that they did, might well have provoked a situation which would apply to the statute ---

A. Deliberately provoked?

Q. It was, I suggest, as a result of this filing of the tariffs; it was providing some measure of equalization?

A. C.P. did what they were required to do about the agreement of 1897, and whatever results flowed from that, just automatically followed, that is all.

THE ACTING CHAIRMAN: Well, I think the fact is, Mr. Doherty, that the C.P.R. relied on what





they thought were their obligations under the Act by the Supreme Court Order, isn't that right?

MR. SINCLAIR: That is exactly right,

MR. DOHERTY: They were giving a restricted interpretation.

MR. SINCLAIR: They were giving the interpretation of the Supreme Court.

MR. DOHERTY: Q. Now, on page 12 and continuing over to page 13, you are speaking of the Supreme Court decision which was referred to by Mr. Sinclair?

A. Yes.

Q And on page 12, at the introduction of that paragraph, you say, "The Supreme Court clearly pointed out that the rates provided by the 1897 Agreement operated prejudicially to the public interest and resulted in unjust discrimination."

A. Yes.

Q. I suggest to you, Mr. Edsforth, that really all that the Court did say, I suggest, is that if these rates were prejudicial, then it was within the complete power of Parliament to make whatever change they regarded was necessary?

A. Well, they said if under the existing law unreasonable rates must be imposed, or unfair discrimination sanctioned, they apparently recognized it as being something unfair and unreasonable.

Q. They recognized that any adjustment felt necessary should be taken into account?

A. Oh, yes.





Q. I want to refer now to a paragraph on page 13, this is the second paragraph -- the first whole paragraph -- which said, "As Parliament was in session at the time it promptly took action which in its view would correct the situation at that time and enacted what are now subsections (6) and (7) of Section 328 of the Railway Act."

A. Yes.

Q. So that this amendment did, in fact, remove the somewhat unsatisfactory situation that existed at that time; it provided for a more uniform application of the rates, is that true?

A. It terminated the Crow's Nest Agreement as far as rates were concerned.

MR. SINCLAIR: I think he asked the witness a question and he got the answer.

THE ACTING CHAIRMAN: Yes, I think so far as this hearing is concerned, it terminated the chaos and there was a new type of order.

MR. SINCLAIR: Mr. Chairman, with all due respect, I will be prepared to answer or argue with the Commission and my friends at any time that the answer of a witness is correct in fact and correct in law, that the agreement was indubitably terminated as of 1925 by action of Parliament as it had the power to do and as found by the Turgeon Royal Commission in 1949.

THE ACTING CHAIRMAN: We will hear you later on that, Mr. Sinclair.

MR. FRAWLEY: I am not expected to rise







and oppose my friend at this time.

MR. SINCLAIR: The witness' answer was given to the question that was asked, and I think it should stand. I thank my friend for bringing it up so clearly.

MR. DOHERTY: Q. In fairness, Mr. Edsforth, I suggest to you that Parliament at this time did not recognize that the level of Crow's rates was prejudicial only that the inequitable application was prejudicial; the effect of the issue of the tariffs would apply an inequitable level of rates?

THE ACTING CHAIRMAN: I don't know, Mr. Doherty, that Mr. Edsforth can be expected to answer that; that is interpreting the action of Parliament and the Court.

MR. DOHERTY: Thank you, Mr. Chairman; I will proceed on.

Q. May I go on now, Mr. Edsforth, to the last paragraph on page 13, in which you speak of a 1925 amendment, that it went far beyond the provisions of the Crow's Nest Agreement?

A. Yes, that is right.

Q. Isn't it also a fact that the amendment removed the obligation placed on the C.P.R. to carry separate effects -- the western movement of separate effects, and the reduction of these rates were removed by this Agreement?

A. Yes, the amendment removed the obligation to maintain rates on westbound commodities from and to the stations that were in existence at the





time the agreement was made.

Q. I think, as Mr. Cooper has already mentioned, this was a sizeable concession to the C.P.R.

A. In terms of revenue, I don't know.

Q. I suggest it directed the C.P.R. to make increases in these rates, and I think that the rates did in fact rise substantially?

A. Yes, from and to certain points only; not from all points in the east to all points in the west.

Q. It did in respect to many of these points?

A. It did extend, I agree.

Q. I believe you also said it would be extremely difficult to give any estimate of the amount of additional revenue?

A. From 1925 onward it certainly would.

Q. But there is a period there of thirty-five years, and it would appear that the amount -- although, perhaps, not computable -- would be a sizeable amount?

A. I couldn't give you any idea.

Q. Now, isn't it also possible that if the C.P.R. had been required to carry grain from stations at a certain rate -- that is, the rate imposed by the statute -- that the C.N.R. would perhaps also have been required to reduce rates for competitive reasons and quite apart from the statute?

A. They wouldn't have been required to, but they might have done so from and to competitive points.





Q. So that it is quite possible that even if the statute had not stated all railways, the C.N.R. would, in any event, have been required to reduce the freight rates to meet the competition?

A. From some stations.

Q. Then you make reference to the fact that there were 289 stations -- this is in the last paragraph on page 13 -- originally 289 stations, and there are now some 1,313 stations. Now, is this not simply an indication of the growth of the C.P.R. and the growth of the West, and was it not a growth that would be anticipated?

A. Of course, we certainly anticipated growth. No one can tell how much it is going to be, but it does indicate that the traffic moving today is from a great many more stations than were ever covered by the agreement.

Q. Would it be true to say that the fact that we have Crow's Nest rates, that this fact alone, the fact that a reduced rate was probably instrumental in providing a great part of this.

A. That is pure speculation. It could have been very well that the traffic could have developed exactly as it did with the level of rates not fixed by any agreement. There is nothing to say that the agreement was responsible for this, no.

Q. But it was the lower level of rates that perhaps encouraged a good amount of this growth. Would that be a reasonable assumption?







A. Well, I don't know that you could make that assumption. I don't know that it necessarily follows.

Q. You wouldn't deny that that might be possible?

A. It possibly could be.

Q. Now, may I proceed, Mr. Edsforth, over to page 13 of the precis, and in the first full paragraph there you are speaking of the Crow's Nest rates, as I understand it, and related rates. You say:

"Mention has been made of the rates on grain and grain products which related to the Crow's Nest rates to the lakehead. So far as Canadian Pacific is concerned, these related rates are those applying on grain and grain products to Pacific coast ports for export and, in so far as Canadian National is concerned, to Churchill, Man., and to Pacific coast ports".

A. Yes.

Q. Could this be regarded as a complete definition of related rates?

A. Well, I don't know, Mr. Doherty. I would say so. I don't know what other definition you have in mind. They are related to the Crow's Nest rates, because the same mileage level is applied, the same rate level is applied. This is why they are called related.





Q. Is it correct to say that there are no other related rates which might be included in this definition as being related to the statutory rates?

A. I cannot think of any.

Q. Proceeding on to the second paragraph, you say:

"At the time of the Crow's Nest agreement, there were no export rates on grain and grain products published from stations in Western Canada to Vancouver and other Pacific coast ports or Churchill, Man."

Now, was there, in fact, any Western movement of grain at this time.

A. I have no knowledge of any, Mr. Doherty.

Q. There certainly wouldn't be any movement to Churchill at that time?

A. No, that is certain.

Q. But the C.P.R., I believe, voluntarily applied the Crow's Nest rates for western movement of grain subject to constructive mileages.

A. Yes, that is right, we did. You are talking to Vancouver now?

Q. Yes, to Vancouver.

A. Yes.

Q. Proceeding along to page 17 of the precis, at the bottom of the page, the paragraph starts:





"There is a marked distinction ..."

A. Yes, I have it.

Q. And continues over to the next page, and about the fourth line at page 18 you say that freight rates were frozen under wartime price control?

A. Yes, that is right.

Q. Is it not also a fact that wage levels were frozen under wartime price control?

A. No, not entirely. I believe there were some changes in wage levels during that period.

Q. But in the majority of cases there was a ceiling on wages at that time?

A. I think railway wages went up somewhat during that period.

Q. There were some exceptions?

A. Yes, I believe so.

Q. How about materials that are used in railways? Was it not fixed prices?

A. I understand so, I believe so. I haven't got the detail of that, I am sorry.

Q. So, in fact, would it be true to say that wages, if they did move up, moved up in a very small degree and materials were maintained at a fixed ceiling?

A. As to material prices, I do not know whether they were maintained at a fixed ceiling or not. When you take materials required in railway work, I do not know that that is so. I am sure that the freight rates were frozen.







Q. Certainly the objective of the wartime price controls, as I understand it, was to impose ceilings on the materials.

MR. SINCLAIR: Now, what the objective was, Mr. Chairman, I don't know -- we will all agree that the objective of the legislation was to assist Canada; we will all agree to that.

MR. DOHERTY: It wasn't only the freight rates themselves that were frozen but other commodities or wages.

THE CHAIRMAN: We should have asked Mr. Gordon that.

MR. SINCLAIR: I would think so, and he would have possibly been able to say why the railways found themselves in the difficulty of prices going up. I would have liked to have asked him that question, too.

MR. DOHERTY: Q. It was to suggest that there was, in fact, a difference between the situation during World War I and World War II. In World War I, as I understand, there was virtually no price control, whereas in World War II there was a substantial measure of price control?

A. Yes, that is quite right, there was that difference. But you will also notice there was a difference in the treatment of freight rates. The railways got freight rate increases, including increases on the grain, during the time World War I was in progress, but they did not get any in the World War II period until over two years after the





war was ended.

Q. These increases you refer to in respect to World War I -- is it not also true that other prices were rising at that time, they were not subject to price control?

A. Oh, yes, that is right. But after World War II when price control was lifted prices increased just the same way. Perhaps not the same measure, but they did go up. During the war I agree, but you must remember that freight rates did not go up until well after World War II.

Q. Proceeding on to pages 19 and the following one or two pages, you are speaking here of the Arbitration Board headed by Chief Justice Sloan, and you also speak of the Taylor Conciliation Board and the Thomson Conciliation Board?

A. Yes.

Q. As I understand it, these boards were dealing with disputes between the railway and their employees as to wage level?

A. Yes, there were conciliation boards or an arbitration board in one case trying to settle differences as to railway wages.

Q. So there would be no reason to expect that these boards would bring down a judgment respecting such things as freight rates; that was not part of their reference, as I understand it?

A. Well, of course, the ability to pay a wage increase is a consideration, and that tied into freight rates.





Q. They were not looking at the matter of freight rates?

A. Not specifically, no, I agree with that, but they had to look at freight rates and consider them in relation to the additional costs that would be imposed upon the railways by these wage increases.

Q. So in reaching their judgment, having in mind that they were not required to look at freight rates, anything that may be said with relation to freight rates would be an expression of opinion, not a part that would require a judgment.

THE ACTING CHAIRMAN: Do you wish to instruct him, Mr. Sinclair?

MR. SINCLAIR: No, I am quite happy with the way he is answering counsel.

THE WITNESS: Well, it was the conclusion reached by these conciliation boards on examining the situation as brought to their attention during that time.

MR. DOHERTY: Q. They were not required to look into the matter of freight rates, and I suggest to you that they would not have had sufficient evidence to allow them to reach a conclusion.

MR. SINCLAIR: Now, the witness said, Mr. Chairman, that in his opinion they were required to look into them. Now, he is not going to change the witness' views. If he thinks so, fine, but he is not going to get this witness to change his mind.

THE CHAIRMAN: He can argue that.

MR. DOHERTY: Q. May I proceed, Mr. Edsforth, and if you look at page 10 of the joint







submission, Exhibit 45.

A. Page 10, Mr. Doherty?

Q. Yes, page 10, and it is the quotation in paragraph 28.

A. Yes.

Q. In which you -- at least the Thomson Conciliation Board are reported as saying:

"They have had great difficulty in getting authority to increase their freight rates and in getting the expected benefits from freight rate increases when they were granted."

Now, is it not possible that in many cases the railways were required to reduce rates to meet competition? I am thinking now of truck competition and water carriers.

A. Yes, that is so, they were, very much so. That is one of our problems.

Q. The Conciliation Board did make mention of that; the speak of "meeting the stiffest kind of competition".

A. Yes, that is right and one of the reasons we have been running into stiff competition is, of course the increases in freight rates which we have had to get which have been higher because of the exemption of the Crow's Nest rates from any increase. That has been one of our real problems.

Q. Now, the railways are not the only people meeting stiff competition.





A. No.

Q. The farmers in the sale of grain, and so on, are meeting stiff competition at all times.

A. We recognize that.

Q. May I refer you to page 7 of the joint brief, Exhibit 45, and you are speaking -- paragraph 21 -- you are speaking of the Royal Commission. May I just read this first part of this paragraph? You say:

"In 1950, the Royal Commission on Transportation, among the myriad of its other duties, gave some consideration to the problem of grain rates in Western Canada, but did not study the revenues and costs of handling that traffic."

A. Yes, that is right.





Q. Now, I wonder if I could refer you, Mr. Edsforth, to the Report of the Royal Commission on Transportation dated February 9, 1951 -- do you have a copy there?

A. Yes, I have. What page?

Q. Page 252 and the second full paragraph on that page which starts out with "Much time".

A. I have it here.

Q. If you would follow this through with me. This is the second paragraph on page 252 of the Royal Commission Report on Transportation, and they say:

"Much time has been taken to consider whether it has been established that the Crowsnest Pass rates, hitherto exempt from the burden of general freight rate increases, should now be made subject to them. As above stated, the removal of this exemption is asked for principally on the ground that it casts an unfair burden on shippers of other commodities. This argument seems plausible in theory but an examination of all the facts involved shows that it is not well founded. It is true that the Crowsnest Pass rates are a benefit to the shippers of grain and flour in Western Canada. In so far as the shippers of other commodities in that region are concerned they do not complain of any undue hardship by reason of the exemption in question. From all that was said before the Commission it can be inferred, on







the contrary, that these shippers would rather continue to bear whatever additional increase is required in their rates (for instance the difference between 18% and 21%) than disturb the immunity of the rates on grain and flour. The shippers in the Maritimes on the whole are fairly well satisfied with the special treatment they enjoy under the Maritime Freight Rates Act in its present form, and their representative before the Commission did not join in the suggestion that the Crowsnest Pass rates should be affected by general freight rate increases. Shippers in Central Canada are in such an advantageous position in comparison with those of the West as to make it clear that they require no relief under existing conditions. The Railway Association of Canada estimates that the railways are losing at least \$50 million annually as a direct result of the competitive rates which they put into effect in order to meet truck competition. This means that without this competition the shippers concerned, of whom the great majority are in Central Canada, would be called upon to pay normal rates very much higher than those now in force. There is nothing in their case that can be called a hardship.

"On the whole therefore no justification can be found for the statement that the exemption of the Crowsnest Pass rates causes an undue





burden upon shippers as a whole or upon any particular class of shippers. The application made for their increase based upon this argument cannot be entertained."

MR. SINCLAIR: Read the next paragraph too, please.

MR. DOHERTY: "There remains the question of the railways themselves. Is there any reason why they should be indemnified against whatever additional burden they may suffer by reason of this exemption from increases of the Crowsnest Pass rates? It is not easy to see what case can be made out for them in this respect. If the Crowsnest Pass rates were made subject to general increases the ratio of the increases would go down. In any case the statement made by the Canadian Pacific Railway Company is to the effect that 'since 1922 the greater burden of the Crowsnest Pass rates deficiency is borne by other shippers'. This statement implies that there is really not much to be said against these rates in respect of their effect upon the railways."

I am indebted to Mr. Sinclair for asking me to read that paragraph because it perhaps strengthens the point I was going to make.

MR. SINCLAIR: I thought it would. Now, the question.

MR. DOHERTY: In fact it would appear that the Royal Commission on Transportation, to use





their own words, devoted "much time" to the consideration of this problem.

A. In relation to the total time they spent on the entire investigation I do not know whether you would call it much time.

Q. You would not agree that the Commission itself is perhaps a reasonable judge of their percentage of time and if they said "much time" it seems to me that is a reasonable indication that they spent a good deal of time.

A. If that was their feeling on it, yes, that is what they said.

Q. And in fact they had considerable evidence before them in which to deal with this question?

A. There was quite a bit of evidence led, yes.

Q Is it not also a fact -- I believe you said this at page 18 ---

A. At page 18 of what?

Q. Page 18 of the precis of evidence, and it is the last and second to last sentence in the second last paragraph where you are quoting the findings of the Royal Commission.

A. Yes.

Q. You say:

"The Royal Commission did not agree to the proposal of Canadian Pacific but instead, found that it was necessary that the rates be kept under the control of Parliament. They said that the time had not arrived for







an upward revision of these rates, although the time might arrive when that would become advisable."

I suggest to you, Mr. Edsforth, that the Royal Commission did in fact give considerable consideration to this problem and they found in fact that these rates should not be disturbed but should remain under the control of Parliament.

A. That is right, for the reasons that they gave then, and that is almost ten years ago.

Q. You are not suggesting any increase in rates at the present time, as I understand it?

A. Not any to the shipper on grain, but we are suggesting these rates should be increased to a proper level on the grain.

THE ACTING CHAIRMAN: Well, that is a matter for the Board of Transport Commissioners, rates -- that is out of our sphere altogether.

THE WITNESS: Yes, if Mr. Doherty is talking about increases in other rates, that is something that comes before the Board of Transport Commissioners, of course. But, as to the statements made there, you have to read them in the context at the time and it is different now. What I do want to point out is, in the third paragraph, the Royal Commission there concluded that there was no burden on the railways; this is following from the application of the statutory rates on grain because they said the railway could pass it on to other shippers by means of rate increases. That





is not now possible in full measure because we find that we cannot recover the additional revenue we need through rate increases because the forces of competition are working against that, so we have to reduce our rates, sometimes quite substantially, below the level that we need to get the revenue required. The situation today is not as it was outlined by the Royal Commission in 1950.

THE ACTING CHAIRMAN: I am just wondering if the Report of this Commission will be read as often as the last one.

MR. SINCLAIR: Certain parts of it will.

THE ACTING CHAIRMAN: It is now five minutes past twelve so we will rise until two o'clock.

---Luncheon adjournment.

(Page 1615 follows)





--- Upon resuming at 2 p.m.

THE ACTING CHAIRMAN: Can we come to order, gentlemen? Mr. Doherty you are still --

MR. DOHERTY: Mr. Chairman, during the noon recess I have re-assessed my question, and I have come to the conclusion that I have no further questions to ask the witness.

THE ACTING CHAIRMAN: Thank you. Mr. Mauro?

CROSS-EXAMINATION BY MR. MAURO:

Q. Mr. Edsforth, before I start may I take this opportunity of extending my congratulations to you on your new appointment.

A. Thank you very much, Mr. Mauro.

Q. I have one or two questions which I feel should, perhaps, be clarified, Mr. Edsforth, arising out of the examination this morning in regard to that phase of your precis which appears on page 1 and which reads:

"In 1897 an agreement was reached between the Canadian Pacific and the Dominion Government whereby the Government would grant a subsidy toward the construction by Canadian Pacific of a line of railway westwards from Lethbridge through the Crow's Nest Pass to Nelson."

A. Yes.

Q. Now, I suggest to you, Mr. Edsforth,







that the Canadian Pacific was most desirous of completing this line of rail, and that, in fact, from 1892 to 1896 they had spent somewhere in the neighbourhood of \$87,000 on the development and surveying of that area?

MR. SINCLAIR: Pray, where would counsel get such figures?

THE ACTING CHAIRMAN: Well, does Mr. Edsforth know?

THE WITNESS: That is true. The company had been making plans with respect to extending into this area. Certainly we wanted to build a railway. We would not build it just for the subsidy itself, but at the same time I point out that the Government also were anxious that the line be built

MR. MAURO: Q. As a traffic expert I am going to read to you, Mr. Edsforth, from the annual report of the C.P.R. in 1896 written above the signature of William C. VanHorne, and I will ask you, as a traffic expert, for your comments:

"In the event of the establishment of direct rail connections with the mining districts, both from the east and the west, this steam boat property will still have ample occupation, for the extraordinary system of navigable waters in southern British Columbia will afford for many years to come the most feasible means of connection with many





"of the important mining sections.

But even with these important additions to its facilities for handling the traffic of the mining districts, your company will continue at a disadvantage in competing with the American lines (which have already reached Nelson, Rossland and other important centers in these districts) until it shall have direct railway connections of its own. Until then the greater part of the mining traffic will be beyond its reach, and will continue to be, as at present, carried by the American lines southward.

Your directors are strongly of the opinion that any delay in securing your interests in that direction will be extremely dangerous, --that unless your company occupies the ground others will, the demand for shipping and travelling facilities being most urgent. The directors feel that they cannot too strongly urge the immediate construction of a line from Lethbridge to a connection with your Columbia and Kootenay railway at Nelson, a distance of 325 miles, and anticipating your approval they have already taken steps towards commencement of the work on the opening of Spring."





As a traffic expert Mr. Edsforth, what are your comments on Mr. Van Horne's statement?

A. Well, he was looking, as you always must ~~do~~ in the railway business, to expanding your line into new territories where you hope you will develop some new traffic. That goes on at all times.

Q. And he thought it would be very dangerous if this line was not built, and built very hurriedly?

A. That was his opinion.

Q. What about your opinion as a traffic expert?

A. Well, of course, if you can get into an area before someone else, that is all the better.

Q. As a traffic expert what is your comment on that, historically?

A. I really am not an expert.

Q. You are surely a traffic expert?

A. I must decline that term. I am not an expert. As a traffic man --

Q. In the same capacity that you answered my learned friend yesterday in commenting on some of these historical facts will you answer me and tell me what is your comment?

A. My comment is: Yes, that the company wanted to build a line, and the Government wanted us to build it too.

Q. This morning in reply to a question from my learned friend, Mr. Cooper, concerning the movement of agricultural implements, you mentioned certain in-transit privileges and stop-off privileges







had been granted.

A. Yes, stop-off and in-transit.

Q. Can you tell me when those privileges were instituted?

A. I cannot give you the exact year, but I think it was about 1953 or 1954; I could be wrong.

Q. I am advised that in Winnipeg, Manitoba this privilege went in in the summer of 1959?

A. No, I am sure it was in before that.

Q. Perhaps you might check on that.

A. I will check on that, but I am certain it went in before that.

Q. Now, the rates under the Crow agreement, Mr. Edsforth, were maintained until 1903?

A. Yes, that is the grain rates.

Q. Yes.

A. Yes.

Q. And in that year due to the Manitoba Agreement, the C.P.R. reduced the -- that is, in 1903 due to the Manitoba Agreement the C.P.R. reduced the Crow rate from 14 cents to 10 cents -- that is, the rate from Winnipeg to Fort William.

A. Yes, it was following from the Manitoba Agreement, although the C.P.R. was not a party to it.

Q. And I understand there was also a reduction on the westbound commodities?

A. Yes, from Fort William west; yes, that is right.

Q. And no reductions from east of Fort William?





A. I do not think there were. I do not recall them.

Q. The reduction under the Manitoba Agreement, Mr. Edsforth, was greater than the reduction under the Crow Agreement, was it not?

A. From Winnipeg, yes. It was 4 cents instead of 3 cents on wheat, but not so on the other grains -- at least, so far as the C.P.R. was concerned.

Q. Now, with reference to the rates from branch line stations --

A. Yes.

Q. -- I assume that the C.P.R. would institute these rates on their own initiative as the branch lines were completed?

A. Yes, that is so.

Q. And what would be the basis for these new rates at the time they might be instituted?

A. Well, they would be made with relation to rates from other branch line points, the distance considered.

Q. Would the rate, for example, after the Manitoba Agreement, be based on the Manitoba Agreement rate or on the Crow rate?

A. Well, it would all depend what station you are talking about.

Q. I am restricting myself to Manitoba.

A. Any branch lines that were in Manitoba would get the same reduction per 100 pounds as the rates on the main line.

Q. The rates that were established on the





branch lines, Mr. Edsforth, were not established due to any competitive factor?

A. Do you mean in Manitoba?

Q. Again, in Manitoba.

A. They could be if it was a branch line across country, or near by a Canadian Northern branch line.

Q. But on the branch line which you had just constructed surely you would have no competition in that immediate area?

A. Do you mean no direct competition?

Q. Yes.

A. It depends on how close the branches ran together. You see, if the branches were close together and a farm was in between the farmer could go to one or the other.

Q. Would it be a fair statement to make that from 1899 to 1918, except for the initial four-year period, your rates both eastbound and westbound were in no way held down by the Crow's Nest Agreement?

A. Well, I do not know that that is a fair statement altogether, Mr. Mauro. You see, when the Manitoba Agreement was made it was made with relation to the rates then in effect, which were the Crow's Nest Agreement rates. Now, if it had not been in the Crow's Nest Agreement the rate level conceivably could have been higher.

Q. Well, what compelled you to reduce your rate below the Crow level?







A. Because of what was done under the Manitoba Agreement. Competitive conditions dictated it.

Q. It was purely a competitive process?

A. All I can say is that the rates following after the Manitoba Agreement were at a level that was influenced itself by the Crow's Nest rate.

Q. But it was the Manitoba Agreement, an agreement to which you were not a party, which was a competitive factor which, in fact, determined the ceiling on these commodity movements up until 1918?

A. It did determine the amount of the reduction, that is true, and therefore, set a level of those rates.

Q. Now, in your research, Mr. Edsforth, for the preparation of this precis were you able to ascertain the state of the C.P.R.'s first attempt to be relieved from its obligations under the Crow Agreement with reference to grain and grain products?

A. The first attempt to be relieved?

Q. Yes, the first record that you could find when the C.P.R. complained about the burden on the movement of grain and grain products?

A. No, I cannot say I specifically went into that feature, Mr. Mauro.

Q. Now, at page 8 of the precis, Mr. Edsforth, the statement of the Railway Committee on Transportation in 1922 is quoted with reference to the fixing of rates by statute. I would like to read you the balance of that portion of the report that appears at page 8.





MR. SINCLAIR: It is not page 8. What is the page you are referring to in that volume?

MR. MAURO: It is page 618 of the report of the Railway Committee on Transportation costs, (Crow's Nest) Agreement.

MR. SINCLAIR: Maybe Mr. Mauro should read it. There are different pages in the volumes.

MR. MAURO: Q. The paragraph which you have quoted, Mr. Edsforth, ends:

"The one reacts upon the other, and both upon the whole freight rate structure which must, within a short period of time, undergo many substantial changes. The question would seem to be largely one that can best be treated by one body, the Board of Railway Commissioners."

A. Yes.

Q. It goes on:

"But it has been represented to your committee that three important provinces of Canada are mainly devoted to the basic industry of grain growing.

The prosperity of that basic industry is a factor vitally affecting the economic welfare of the nation at large.

The grain grown in the Prairie provinces is mostly for export purposes and the price of that commodity is settled by competition on the grain markets of





"the world.

During the war, due to reduced production and increased consumption and the large stocks that had to be accumulated by the Governments of warring countries, grain prices were greatly inflated. Since the termination of the war, a rapid deflation of grain prices took place, due to increased production, and reduced consumption, and also due to the fact that so many nations with a depreciated currency have largely lost their purchasing power. These factors have forced down grain prices towards pre-war levels much more rapidly than what has been the case in respect of other commodities that grain growers are obliged to buy.

On the other hand, some of the reasons advanced in 1918 as justifying the suspension of the Crow's Nest Pass Agreement have disappeared, and your committee has reached the conclusion that an immediate reduction of freight rates and grain and flour is in the national interest."

I have now read the whole portion, Mr. Edsforth. The part I wanted your comment on is this last paragraph which reads:

"On the other hand, some of the reasons advanced in 1918 as justifying the suspension







" of the Crow's Nest Pass Agreement have disappeared, and your committee has reached the conclusion that an immediate reduction of freight rates on grain and flour is in the national interest."

A. Yes, I think they were referring there to the fact that wages had gone down.

Q. Do you agree with the Committee's statement?

A. Yes, I say that I think there the reason they are referring to is because the wages had been reduced. The cost of railway operation had decreased.

Q. So you say by recognizing that all matters relating to railway rates could best be treated by the Board of Railway Commissioners, the Committee nevertheless recommended the suspension of the Crow's Nest rates, but there were very good reasons, the Committee thought?

A. They were reasons the Committee thought were good.

Q. What do you think of that, as a traffic expert?

A. Mr. Mauro, I do not know. Of course, you are looking at economic conditions as they were then, and I could not say whether that committee was right or not. I do not think they were, as a freight traffic man, because I do not think rates should be held down indefinitely.

Q. At page 9 of your precis, Mr. Edsforth,





you quote from Mr. A. W. Currie in the second edition of "Economics of Canadian Transportation" to the effect that in any case the problem was decided from the standpoint of politics rather than economics. I presume you adopt Mr. Currie's statement as quoted?

A. Mr. Currie, Mr. Mauro, had evidently studied this very carefully, and I am quite sure that he would not have made that statement without sound reasons, so I must say I adopt it.

Q. Yes, you adopt it. Would you tell me, because it is hard in this context to know, whether this was a critical statement or a complimentary statement on the finding of the Railway Committee.

A. I am not in a position to comment on that; I do not know.

Q. You just told me a moment ago that you do not agree with the finding of that committee, and, therefore, it must be in a critical context?

A. I said I did disagree with the finding of the committee. I do not think those rates should have been restored at that time.

Q. Would you apply that same logic and say that the decision of that committee to maintain the suspension of the Crow rates on westbound commodities was a political rather than an economic decision?

A. To maintain the suspension of the Crow's Nest rates on the westbound commodities was what?





Q. You know that the Railway Committee said that the Crow rate on westbound commodities would be lifted, is that correct, the Railway Committee had two portions to this?

A. Yes.

Q. One was the Crow rate on westbound commodities, the suspension would be extended?

A. For a period of one year, that is right.

Q. And then it said that the Crow rate on grain and grain products would be reinstated, am I correct?

A. Yes.

Q. You tell us in this context that the decision on grain and grain products was a political rather than an economic decision?

A. I didn't say it was. I said that was what Dr. Currie said.

Q. Why did you note it?

A. I just noted it, that was all.

Q. Do you agree with him?

A. I said I had no reason to disagree.

Q. We take it that you are agreeing?

A. Yes.

Q. Do you agree with him? That is what I want you now to tell me, whether you agree that the Committee was also giving a political decision when it lifted the Board rate on westbound commodities?

A. I don't know whether they were or they were not.







Q. Why do you come to the conclusion it was a political decision to maintain the Crow rate on eastbound grain and grain products, but you don't know whether it was a political decision for removing the Crow ceiling on westbound commodities?

A. The conclusion was not reached by me.

Q. Surely this is your conclusion, and you are not ---

A. It was somebody else's conclusion.

Q. You told me you agreed with it?

A. I do agree with it.

Q. I am asking you ---

A. I have no comment to make about the westbound because I don't know.

Q. But you do know about eastbound?

A. I don't know about westbound.

Q. I would also like your comments as to whether or not the building of the C.P.R. was a political or an economic decision?

A. On whose part?

Q. It was built; was it an economic decision to build the C.P.R. or a political decision?

A. That is a rather large question there, Mr. Mauro, because certainly it had some political associations with it, it was part of the fulfilment -- part of the Confederation Agreement, that a railway should be built between eastern Canada and the Pacific coast.

Q. It was a very intrinsic part, I suggest, Mr. Edsforth, in the fulfilment of national





policy at that time?

A. Yes, I think that may be so.

Q. And I suggest to you that the participation of the Government of Canada in the Crow's Nest Pass Agreement was as intrinsic a fulfilment of national policy?

A. I don't know how you can compare the two; I don't think you are talking about the same thing.

Q. Then, I will read you from the Royal Commission on Canada's Economic Prospects of November, 1957, which is sometimes referred to as the Gordon Commission, and I am reading from the chapter entitled "Transportation" at page 268:

"The fact that a unified Canada would be in a better position to ensure the financing of the transportation facilities needed to develop the northern half of the North American continent played no little part in the decision to create a new dominion. And the support given by the Federal Government to the building by the Canadian Pacific Railway of an entirely Canadian route to the Pacific, in contradiction to all the laws of economics, undoubtedly did more than any other single act of policy -- perhaps more than all other policies put together -- to enable the hopeful vision of a separate nation to be turned into a practical and prosperous reality."

I think the word "vision" is rather outspoken.





MR. SINCLAIR: In the direction of the  
Chairman earlier this morning ---

MR. FRAWLEY: I was wondering if Mr. Mauro  
would miss that word.

MR. MAURO: Q. I wonder if you agree with  
that statement in the Gordon Commission Report?

A. Well, I certainly do agree that the  
building of the Canadian Pacific helped to create Canada  
as a nation, yes, I surely do.

Q. It was a political decision, Mr. Edsforth?

A. A political decision to build the rail-  
way?

Q. Yes.

A. Yes, I think it was.

Q. There is nothing evil about the word  
"political" is there?

A. No, I never thought so.

Q. So that when Mr. Currie says that in  
any case the problem was decided from the standpoint  
of politics rather than economics, that is not  
necessarily a critical statement?

A. I didn't use it in that way.

Q. But you told me you were critical of  
the Railway Committee?

A. I was critical of what they did, but  
not whether it was a political decision or not; there  
is quite a difference, you know.

Q. I will quote to you from Professor  
Currie at page 79 of the second edition, it is the  
first full paragraph, Mr. Edsforth, on page 79:







"To outline the political reasons for the restoration is not to suggest that economic arguments could not be made to justify the Government's action. Relief to agriculture and the fact that benefits from lower grain rates would be shared by all Canada, including railways, through a revival in general business, could be urged as reasons for the restoration of the Agreements. But these economic arguments could easily be honoured beyond their deserts. The facts are that the Agreement gave the West a legal claim for rates lower than it could have secured on clear economic principles and the political circumstances of the moment favoured the attainment of the West's desires."

Now, that, I suggest, is a fairly concise statement of the admixture of politics, law and economics that resulted in the maintenance of the Crow's Nest Pass rates. What do you say to that?

A. Well, Mr. Mauro, as to the legal aspect of it, of course, the fact was ---

THE ACTING CHAIRMAN: You probably, Mr. Mauro, had better leave that question as your statement, had you not, because, after all, Mr. Edsforth is a very learned man but he is neither a lawyer nor an economist.

MR. MAURO: I read the statement of the Judgment, sir, but we were confronted here with statements and opinions and comments yesterday on





historical data, legal decisions and economic conditions, and I suggest that all I request throughout my examination will be the same type of statement that my learned friend Mr. Sinclair elicited yesterday from him as an expert, which this man is.

MR. SINCLAIR: May I say, Mr. Chairman, that on behalf of Canadian Pacific I certainly wouldn't object to the question and I think the witness can answer it and will do so and will try to assist Mr. Mauro. He may not be an economist in the true sense, and I agree with that, but his job requires him to be a practical business man.

MR. MAURO: I respect that.

MR. SINCLAIR: He is not a lawyer but he does know something about the history of the law.

MR. MAURO: Yes, that is exactly it.

THE ACTING CHAIRMAN: Repeat your question.

MR. MAURO: Perhaps the reporter will read it.

THE ACTING CHAIRMAN: I am interested in the manner in which this will be dealt with.

MR. SINCLAIR: I certainly hope, like Mr. Doherty and Mr. Mauro, that he approaches it in the very fair way that I think he will do.

MR. FRAWLEY: As I always do.

MR. MAURO: Q. Now, Mr. Edsforth, as best I can remember my question was that I suggested the statement I quoted to you from page 79 of Currie was a concise statement of that admixture of politics, law and economics that resulted in maintenance of





the Crow's Nest Pass rates in 1922.

A. They were all mixed in there, that is true, and, of course, as to the legal aspect of it, Mr. Mauro, this was, the statement, the agreement of 1897, was still in force, it wasn't changed, and it was terminated until 1925, so there was a legal reason in there. As to the economic circumstances, one can only judge them by the times, whether a reduction in rates to that low level was required, I wouldn't say. In fact, this comment appears to indicate that probably it went beyond the range of what would be economically justified or needed.

Q. I think you suggest that these economic arguments could easily be honoured beyond their deserts. It doesn't suggest they were?

A. I think perhaps they were, I think they were reduced too low.

Q. Your Exhibit 49, Mr. Edsforth -- this is just a request -- it covers a comparison of Crow's Nest rates on wheat from representative prairie points to Fort William and Port Arthur in effect at various dates. I wonder if you would be kind enough to complete, or, at least, add to that exhibit, Mr. Edsforth, by giving us certain information covering westbound commodity rates during these periods and perhaps also as to the lifting of the Crow ceiling. The particular ones I requested you give my learned friend Mr. Cooper this morning were agricultural implements, and I would appreciate it if it is possible to obtain







information concerning furniture from Woodstock to Regina.

MR. SINCLAIR: If he will just list them out we will look for them and try to get them.

MR. MAURO: There is no hurry at all.

MR. SINCLAIR: I don't think he would have them here; it would take some little time. Perhaps I can make a request to Mr. Cooper to file it as an exhibit later.

MR. MAURO: Binder twine, Hamilton to Winnipeg; apples, Toronto to Moose Jaw; window glass, London to Portage la Prairie; household goods, Brockville to Brandon; iron bars, Hamilton to Calgary.

MR. FRAWLEY: I am glad you got further west there.

MR. MAURO: Cattle, Ingersoll to Weyburn, Saskatchewan; lubricating oil, Montreal to Edmonton; paints, Windsor to Regina; wire, London to Saskatoon, and wooden ware, Woodstock to Winnipeg.

MR. SINCLAIR: I take it that if there are no movements we will say so. For instance, with regard to the apples, you have them moving in the wrong direction; you have got them from the east to the west instead of from the west to the east.

MR. MAURO: They were not moving too quickly to the east.

THE ACTING CHAIRMAN: If they are just paper rates they wouldn't be of much interest.

MR. SINCLAIR: That is what I am saying.

THE ACTING CHAIRMAN: If there is any





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movement on the particular commodity.

MR. SINCLAIR: Of some volume, not just a car.

MR. MAURO: Q. I wanted the rates up to 1918, and then after 1925?

A. Yes.

(Page 1641 follows)





Q. Because my advisor tells me that apples were moving west in substantial quantities prior to 1918?

A. They could have been. They are not moving so substantial quantities today.

Q. Now, Mr. Edsforth, subsequent to the Parliamentary Committee's report, there was an appeal taken to the Governor in Council in 1924. Are you familiar with that?

A. That was following the action taken by the railways to restore the westbound commodity rates.

Q. Is it your opinion, after perusal of this material, that at the time following the Parliamentary Committee's decision and before the appeal to the Governor in Council the C.P.R. was dissatisfied with the decision of the Parliamentary Committee to maintain the Crow's Nest Agreement with relationship to grain and grain products eastbound?

A. Yes, I think that is a fair statement, that they were not pleased about it.

Q. I refer to the hearing before the Governor in Council dated Ottawa, June 27, 1924. I am quoting Mr. Lafleur who, I understand, was appearing on behalf of the railways, and the position of the C.P.R. --

MR. SINCLAIR: Now, Mr. Chairman, now we have got a statement as to what counsel said from an appeal. Mr. Lafleur was a very distinguished lawyer, I am sure --

MR. MAURO: This was the Governor in Council.







MR. SINCLAIR: This is an appeal from a proceeding, and I don't know what Mr. Lafleur said.

THE ACTING CHAIRMAN: We will hear what Mr. Mauro has to say.

MR. SINCLAIR: He said the position of the C.P.R. Now, this is the position of Mr. Lafleur.

MR. MAURO: If he not speaking for the C.P.R.?

MR. SINCLAIR: Now, everything a lawyer says is not -- other people in Manitoba certainly are not going to accept the responsibility of everything Mr. Mauro says. If he wants to bind his client, that is one thing.

MR. MAURO: This is the first time that I heard statements of counsel are not acceptable in this context with the view to having the witness comment on those statements. We have heard some pretty strange statements yesterday.

THE ACTING CHAIRMAN: We had better hear what you have to say.

MR. MAURO: Q. Questioned by the Hon. Mr. Graham as to where he wanted these rates to take effect, from where to where, Mr. Lafleur says:

"From points east of Fort William to western destinations; but you will notice, Mr. Premier and gentlemen, there are three limitations on this reduction -- it is to apply to a specified territory viz. the territory which was in 1890 covered by the lines of the Canadian Pacific Railway;





"it was applicable as to territory to the then existing mileage because it provides the reduction was to be made on the existing rates on the railway. So it was restricted as to territory. In the next place, it was restricted as to the class of commodities. These were said to be more or less basic commodities, but were far from including all the basic commodities required in the Prairies, and the third limitation, it was to be traffic westbound from points in the east to the west."

I now come to the portion I would like your comment on:

"Now, I am not dealing with the grain situation now; I am dealing with the situation as it affects commodities other than grain and grain products, because we are not asking for any change in the conditions established in 1897 in regard to grain and grain products. You will recollect that question was gone into in 1922 when an investigation was made before a special committee and the special committee reported against any change in the grain rates created in the arrangement of 1897, and simply recommended the suspension of the Crow's Nest Pass





"agreement in regard to other commodities and it is in regard to these other commodities that we are now making our submission."

Do you agree with Mr. Lafleur? What are your comments on it?

A. Well, I don't exactly know what comments you want from me.

Q. You told me you thought the C.P.R. was dissatisfied with the decision of the Parliamentary Committee, and I read you a statement from Mr. Lafleur that apparently at the time they appeared before the Governor in Council in 1924 they were not concerned with the eastbound grain and grain products.

MR. SINCLAIR: That is not what Mr. Lafleur said. He said that the C.P.R. was not satisfied. That is not what Mr. Lafleur said, with all respect.

THE ACTING CHAIRMAN: Read that again, please?

THE WITNESS: "Now, I am not dealing with the grain situation now; I am dealing with the situation as it affects commodities other than grain and grain products, because we are not asking for any change in the conditions established in 1897 in regard to grain and grain products. You will recollect that question was gone into in 1922 when an investigation was made before a special committee and the special committee reported against any change in the grain rates created in the arrangement of 1897,







and simply recommended the suspension of the Crow's Nest Pass Agreement in regard to other commodities and it is in regard to these other commodities that we are now making our submission."

THE ACTING CHAIRMAN: Well, that is to say, Mr. Mauro, whether they were satisfied or dissatisfied, they were not after any change.

MR. MAURO: That is right.

Q. And the decision of the Parliamentary committee was to expire, was it not, Mr. Edsforth, it had one year?

A. The decision had been finalized on east bound grain in 1922, and as far as that time was concerned, the decision has been made that the grain rates were to be restored to the 1897 level.

Q. Now, at page 12 of your precis of evidence, Mr. Edsforth, you referred to a decision of the Supreme Court of Canada appearing in 1925 Supreme Court Reports at page 155, and your comments on that decision are as follows:

"The Supreme Court clearly pointed out that the rates provided by the 1897 Agreement operated prejudicially to the public interest and result in unjust discrimination."

Would you perhaps assist me in finding out where the Supreme Court said or pointed out that the rates provided by the 1897 Agreement operated prejudicially to the public interest.

THE ACTING CHAIRMAN: I think, Mr. Mauro,





that in all fairness to the witness, in view of what Mr. Sinclair said some time this morning, he assumes the onus for that.

MR. SINCLAIR: Well, no, sir. He is talking from the precis, and I think Mr. Edsforth goes on to quote the reason in support of it.

MR. MAURO: I am quite aware that it appears in the evidence. There is a statement by the witness that the Supreme Court pointed out that the rates provided by the 1897 Agreement operated prejudicially to the public interest. Now, if he suggests that those paragraphs that he subsequently quotes are the bases for that opinion, that is all he needs to say.

MR. SINCLAIR: That is what he says; he goes right on:

"Anglin, Chief Justice of Canada  
stated ..."

THE ACTING CHAIRMAN: I think there was some objection from Mr. Frawley to the manner in which the evidence was led. I allowed him to proceed through Mr. Sinclair, and now I think, in view of the fact that this had been said, Mr. Mauro has the right to cross-examine.

MR. SINCLAIR: I am not objecting; I just want him to continue.

MR. MAURO: Q. I am quoting from the bottom of page 170, Anglin, Chief Justice of Canada:

"In holding the statutory maximum  
rates fixed by clauses (d) and (e) of the





"Crow's Nest Pass Agreement to be binding on the Board of Railway Commissioners we do not, as the learned Chief Commissioner apprehended, view the agreement as forever disabling the parties thereto from reconsidering their situation or re-adjusting their relations. On the contrary --"

This is the portion that you quote --

"-- On the contrary, Parliament, which was in reality one of the contracting parties stipulating the terms on which it would grant the subsidy, may to-morrow re-consider and re-adjust those terms and relieve the other contracting parties from the obligations it incurred; and it is not to be supposed that the Parliament would hesitate to exercise its powers for the correction or amendment of legislation which is found to operate prejudicially to the public interest. But Parliament alone can do this. Having made the obligations statutory, it must change or amend them by statute."

Now, is it in that paragraph --

A. It really goes on to 174, Mr. Mauro.

Q. We will deal with 171. There is a paragraph that I have just read you in 171. Does it say in that paragraph that the rates were prejudicial







to the public interest?

A. No, it doesn't say so, but it says that Parliament can correct the situation where they are prejudicial to the public interest.

Q. And 174 -- I will start with the paragraph at 173:

"In appeals from the Board of Railway Commissioners the functions of the Supreme Court are very circumscribed. When it has declared and certified the law as it finds it and has accordingly allowed or disallowed the appeal for which leave is given, *Can. Pac. Ry. Co. v. City of Toronto*, (1), those functions are exhausted. However grave, however disastrous the consequences, the court is powerless to afford a remedy. The Board of Railway Commissioners in its turn can only apply and administer the law as it exists. If, under the existing law, unreasonable rates must be imposed or unfair discrimination sanctioned, with the resulting chaos and further ill effects so graphically portrayed in the opinion of Mr. Commissioner Boyce, the remedy lies with the High Court of Parliament."

Is it in that paragraph --

A. I think you have to carry right to the bottom of the paragraph.





Q. "By amending the existing law it may either itself do or may empower and and require its delegate, the Board, to do as full and complete justice as circumstances admit. Fortunately Parliament is presently in session. Whatever remedy, if any, it may in its discretion consider necessary or desirable can be speedily afforded."

Does he say the rates under the 1897 Agreement were prejudicial to the public interest?

A. I so interpret it.

Q. Now, Mr. Edsforth, it is your opinion that the rates set out under the Agreement of 1897 -- I am sorry. You say on page 13, Mr. Edsforth, of the precis that the change in the statute made the level on grain and flour as set out in the Crow Agreement applicable to all points on your lines in Western Canada eastbound?

A. Yes.

Q. How is that in variance with the situation which existed prior to 1918?

A. It wasn't at variance with the situation which existed in 1918 but it was at variance with the Agreement of 1897.

Q. In fact, many rates prior to 1918 were lower than the Crow?

A. Yes, on certain points.

Q. So to that extent the statute was a benefit?





A. I beg your pardon?

Q. To the extent it raised the rates up above the 1918 rate back to the Crow level, there was a benefit to be received by the railroad.

A. Well, it raised the rates over the Manitoba Agreement, which was the decision in 1917 in the 15 per cent case and the 25 per cent case of 1918.

Q. And also the statute permitted you to maintain the full westbound increases which had been attained, amounting to 87 per cent?

A. I don't know what the percentage would be, but it did allow the westbound rates to remain under the Board's jurisdiction. One part of the 15 per cent was merged into the 25.

Q. To that extent this statute was of benefit to the railway?

A. The 1925 amendment to the statute?

Q. Yes.

A. Yes, by permitting the westbound rates to remain at a proper level.

Q. At the level that they wouldn't have been at had the Crow Agreement been extended?

A. Only to and from certain stations, not from all points.

Q. Would it be correct to say that the east also received benefits since it removed discrimination from the various points of shipment west?

A. I think there was discrimination both in the east and the west, as far as that goes.







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Q. This statute had that effect, to remove discrimination from various shipping points in Eastern Canada?

A. The amendment to the statute did just that.

(Page 1652 follows)





Q. I am referring to Currie on this particular point at page 88:

"The Minister stated that by this legislation the east got freedom from discrimination. The west got the Crow's Nest rates on grain on all lines between British Columbia and Lakehead, a total of over 17,000 miles, instead of on the fewer than 3,000 miles of the Canadian Pacific 1897 line. Members of parliament from British Columbia objected that there was discrimination against that province but government spokesmen declared that the Agreement had not affected British Columbia before and did not now."

A. Yes, that is so. There was also a discrimination as to distinctions in western Canada.

Q. Now, Mr. Edsforth, at the time of the agreement there were 3,949 miles of line covered by the Crow's Nest rate?

A. Well, there were 3,949 miles of railway in western Canada, there would not be Crow's Nest rates for all of them, not in British Columbia. They were not producing any grain in the Rockies.

Q. But that would be covered by the Crow's Nest Agreement?

A. Well, as far as the westbound commodity rates are concerned, yes.

Q. In 1923 I am advised there were 9,400 miles operated by the C.P. in western Canada?

A. In 1923?

Q. Yes.





A. That may be but I have not the figure.

MR. SINCLAIR: If that is from the DBS Report we will accept it.

MR. MAURO: Q. I was not making it up. I saw it somewhere in the 1922 Case. My question is that the C.P.R. had instituted rates which were at or lower than the rate on 5,500 miles of new trackage?

A. By 1923?

Q. Yes.

A. Well, as to the period up to 1918 they had had these rates involuntarily but the rates were -- no, this is 1923, that was before the statute amendment. The rates were reissued in 1922 on the basis that had been in effect prior to the suspension of the agreement.

Q. Now we come to the statute of 1925 and I take it that it is your clear opinion that that statute abrogated or did away with the Crow's Nest Agreement of 1897?

A. With the rate provisions, in any event.

Q. On what do you base this opinion of yours, Mr. Edsforth?

A. Well, in the first place from my understanding, and from what I have read of what took place at that time it was the intention of Parliament in introducing a bill to amend the statute that it would terminate the Crow's Nest Agreement so far as rate provisions are concerned.

Q. That is a very candid answer. Did







you check the parliamentary debates at that time in order to arrive at this conclusion that it was the intent of Parliament?

A. No, not completely, no, I did not.

Q. Well, I will read you certain excerpts from the parliamentary debates and ask you to comment. I am reading from the Debates of the House of Commons, 1925, Volume V, and page 4309. The Honourable Mr. Graham, Minister of Railways, is speaking:

"Now, there are two things that parliament can do; it can insist on having the Crowsnest agreement remain in force in its entirety or it can remove it altogether from the statute books. But a third and middle course might be taken, and we are asking parliament to remove from the agreement that part relating to westbound traffic, leaving to the prairies and the west for the future all the benefit they have ever received, and more too, I think, on grain and flour."

MR. SINCLAIR: " . . . and more too --".

After all, Mr. Chairman, if he wants to say one thing and then read ---

MR. FRAWLEY: This is so amazing after we listened all morning to Mr. Sinclair telling what an excellent witness this man was. We all know how excellent he is and my friend put him on the highest pedestal, almost making a counsel out of him and now to be faced with these interferences, I cannot understand it.





MR. SINCLAIR: With all due respect, all I am saying to counsel is this, that it is extremely difficult for any witness to be read something by counsel and then say "Now there". If Mr. Mauro wants to hand it to him and let him read it ---

MR. MAURO: It was not necessary to have a speech.

THE ACTING CHAIRMAN: I am sure Mr. Mauro had no intention of being unfair.

MR. SINCLAIR: If he will let him look at it then it will be fine. I am not objecting to the witness answering; I just want him to have a chance to look at it.

THE ACTING CHAIRMAN: He should have that. I think Mr. Mauro would want him to have that. Just one question, was Mr. Graham the responsible Minister in charge of the matter at that time?

MR. MAURO: Yes. This was the debate on the introduction of Bill 181.

THE ACTING CHAIRMAN: Of which he was in charge?

MR. MAURO: He was in charge.

THE WITNESS: Well, he was commenting only there on what Parliament was doing with respect to the westbound rates. However, I must say, Mr. Mauro, that the reference is given. I cannot give you the reference in the debate but it is referred to in the Turgeon Commission.

MR. MAURO: Q. Oh, yes, that is exactly what I am referring to also because Turgeon quotes





a statement by the Minister of Railways on the introduction of this bill and I am suggesting that the total statement of the Minister was not given by Turgeon. I am asking you, since you stated you based your opinion on the intent, what you thought was the intent of Parliament, to tell me what you now think of this statement:

"Now, there are two things that parliament can do; it can insist on having the Crowsnest agreement remain in force in its entirety or it can remove it altogether from the statute books. But a third and middle course might be taken, and we are asking parliament to remove from the agreement that part relating to westbound traffic, leaving to the prairies and the west for the future all the benefit they have ever received, and more too, I think, on grain and flour."

A. Yes, because they went far beyond the agreement and made a statute which clearly went beyond the terms of the Agreement.

Q. You therefore interpret that statement as showing the intention to repeal the Crow's Nest Pass Agreement?

A. I am interpreting this statement introducing the legislation as well as the fact of the legislation itself.

Q. I am now reading from page 4313 of the Debates:

"Mr. Hoey: There is no reference to the westbound rates on grain and flour?







"Mr. Graham: There never was. In this bill we are sticking to the terms of the Crowsnest Pass agreement. I want to explain again that if we started in to make a wholesale tariff for all the different parts of Canada, which is the business of the Board of Railway Commissioners, I am afraid parliament might not make a very good job of it. Consequently we are sticking to the terms of the Crowsnest Pass Agreement. We are not making new legislation except in the manner I described a few minutes ago, eliminating that portion of the Crowsnest Pass Agreement relating to westbound traffic but retaining every item of benefit the prairie provinces have had heretofore on grain and flour. Now, let me read the proposed amendment. We have got to the point where all the traffic but the westbound traffic is still under the Crowsnest Pass Agreement, and the balance is put under the Board of Railway Commissioners."

A. Mr. Mauro, they did not stick to the terms of the Agreement, they went far beyond it.

Q. Your position is not based on the intent as evidenced by the statement of the responsible Minister ---

A. It was as the intent when the Minister introduced the bill and the action taken. When you take those two things together you reach that conclusion, at least I do.

Q. And in the statement at the conclusion





of the debate by the then Prime Minister, Mr. Mackenzie King, at page 4439:

"In regard to allowing the maximum rates on grain and flour to remain, I would point out to my friends from British Columbia that the government is not adding restrictions to the railway commission, but is rather subtracting from the limitations which the Crowsnest Pass agreement had imposed in the protection afforded the middle west. In other words, it is allowing part of that agreement to remain, but it is taking away part. To that extent some sacrifice is being required of the middle west, but inasmuch as the railway commission is not given a free hand to equalize rates all over Canada regardless of the maximum rates that are being fixed for the middle west, to that extent also some sacrifice is being required of other parts of Canada. I ask, is it possible to gain support for any policy which demands a sacrifice only at one point and not at other points?

"In the interests of national unity, in the desire to bring about a policy of equalization of rates, the government realizes that some sacrifice must perchance be temporarily borne by each of the provinces. We have sought to make that sacrifice as equal as we can as respects all parts of the country.

"Now while we are taking away a part of





the Crowsnest Pass agreement under this arrangement, the government is extending the security with respect to flour and grain to an area much beyond that which was fixed in the original agreement."

A. Exactly, they terminated the agreement by extending it.

THE ACTING CHAIRMAN: Do you still both have the same opinion?

MR. MAURO: May we have a recess at this point?

THE ACTING CHAIRMAN: Yes, I think so.

---Short Recess.

(Page 1667 follows)







THE ACTING CHAIRMAN: Very well, Mr. Mauro.

MR. MAURO: Thank you, Mr. Chairman.

Q. Mr. Edsforth, at page 19 of the precis,  
and page 1464 of the transcript --

A. Yes, I have them Mr. Mauro.

Q. -- you are referring to the conciliation  
procedures in 1954 before Mr. Justice Sloan?

A. Yes.

Q. At page 1466 you are quoted to this effect:

"Well, in appearing before the Conciliation or this Arbitration Board, the railways pointed out to the arbitrator their financial problems and their difficulties, and stressed their lack of ability to pay increased wages and to assume increased labour costs. However, the arbitrator did award the employees improvement in their fringe benefits and in doing so, however, they recognized the difficult financial position of the railways and the restricting effect of the fixed statutory rates on grain. The Chief Justice also expressed that he was of the opinion that where the application of the fixed statutory grain rates results in a loss of rail revenues, this should be the responsibility of the national treasury. "

Can you tell me, Mr. Edsforth, whether the learned Chief Justice had before him the deficits of





the passenger service of the Canadian Pacific?

A. I could not tell you that, Mr. Mauro;  
I do not know.

Q. Can you tell me whether the Chief  
Justice had before him the deficits of the Canadian  
Pacific in the operation of branch line services?

MR. SINCLAIR: What deficits?

THE WITNESS: Yes, I do not know that there  
are any figures of deficits.

THE ACTING CHAIRMAN: Any deficits.

MR. MAURO: He is a good witness, and he knows  
what to say.

MR. SINCLAIR: I might say that counsel  
must point to something.

THE ACTING CHAIRMAN: I think you can qualify  
it by saying "any deficits".

MR. MAURO: Q. Are there any deficits  
on the branch line operation of the C.P.R.?

A. There may be some, Mr. Mauro, but I  
do not know what they are, or if they exist.

Q. I see, but you think there may be some.

A. There may be some.

Q. Well, were those some before the Chief  
Justice?

A. I do not know.

Q. Do you know what cost information was  
presented to Mr. Justice Sloan at that time?

A. Cost information?

Q. Cost information as to the costs of  
carrying the grain traffic?





A. No, I do not know.

Q. Then, at page 1467 there is this:

"Q. Now, Mr. Edsforth, the next major issue between the railways and their employees was the subject of an extended hearing before the Taylor Conciliation Board, and this report was issued in 1956, and that is referred to at paragraph 25 of the joint submission of the railways. Will you please give the Commission your comment on that proceeding?

A. Well, again, during these proceedings considerable evidence was introduced by the railways as to their disabilities in meeting existing costs of transportation and of the difficulties that would be encountered in attempting to meet increased costs, and the railways drew the attention of the conciliation board to the results of the fixed statutory rates on grain and grain products as well as the increase that the railways were finding from competition, particularly from motor carriers and the inability of the railways to spread increased costs over all freight traffic because of the statutory grain rates."

Did you participate in the Taylor Conciliation?

A. Yes, I did.







Q. Perhaps you can tell us whether any passenger deficit figures were presented to the Taylor Conciliation Board?

A. Not in my evidence.

Q. Were you present while anyone else gave any evidence as to any passenger deficits?

A. I do not recall any.

Q. Did you give any evidence regarding branch line losses, if there are some?

A. No, I did not.

Q. Did you hear anyone else in your presence give such evidence?

A. I do not recall any.

Q. To your knowledge, then, the only evidence presented to Mr. Taylor on that conciliation board was as to alleged losses regarding the statutory grain rates?

A. It was more than that, Mr. Mauro. I gave a good deal of evidence on the competition we were meeting and the problems of getting additional revenues from our freight traffic because of competition, because of the limiting effect on the statutory rates.

Q. Now, I assume that you informed Mr. Taylor of the fact that you had no control over the statutory grain rates? This was one of the factors?

A. That is right; we had no control, and the Board did not.

Q. Did you tell him of any control that





you had over competitive factors?

A. Well, as to competitive factors -- do you mean meeting competition?

Q. Yes.

A. We certainly cannot control our competition, but we have got the right to meet it and to adjust our rates as we find it necessary to do in meeting competition, which we are not able to do so far as the grain is concerned. We want to change them.

Q. At page 1472 of the transcript you referred to a decision in 1957 of the Thomson Conciliation Board, which, I believe, appears at page 10 of the joint submission, and that quotation from the Labour Gazette, Mr. Edsforth, reads as follows, and I am reading from paragraph 28 of the joint submission --

A. Yes.

Q. ---"In the meantime (referring to the period from the end of the war to 1958, the date of the Board's report) the Canadian railways have had an altogether different experience ... They have had great difficulty in getting authority to increase their freight rates and in getting the expected benefits from freight rate increases when they were granted. They have been forced by public policy or conditions over which they have no control to haul enormous tonnages of freight ... at rates which are wholly inadequate."





Now, it would appear, Mr. Edsforth, that there are two factors, namely, public policy and conditions over which you have no control which have forced you to haul these enormous tonnages of freight; is that correct?

A. That is what the statement says, yes.

Q. In your precis at page 22 you state that the Board recommended substantial increases in wages and came to the conclusion that the railways' financial difficulties were due to stiff competition and the fact that they were forced by public policy to haul enormous tonnages of freight at rates which they termed "wholly inadequate". It was not only public policy that the Board said caused you to haul enormous tonnages at wholly inadequate rates?

A. Or conditions over which we have no control, but I do not know what other rates are wholly inadequate, as far as that is concerned.

Q. I see. One of these factors over which you have no control would be the competitive factor?

A. Yes, but we do not handle competitive traffic at inadequate rates. That is to say, we will not put in competitive rates unless they contribute something to our revenues over and above their costs.

Q. Now, you have referred to the decision of the Board of Transport Commissioners in the 15 per cent case in 1957?

A. Yes.

Q. At page 10, paragraph 27 of the joint







submission, the quotation reads:

"These factors indicate that it is the freight rate structure itself which is largely responsible for the situation in which the railways now find themselves... This difficulty is intensified by the fact that the grain traffic within Western Canada is carried at statutory grain rates which cannot be increased and which yield only one-half cent per ton mile..."

The point I wish to make, Mr. Edsforth, is that the Board had concluded that it was the freight rates structure itself which is largely responsible for the situation that the railways find themselves in, and the function or role of the statutory grain rates was to intensify a bad situation.

A. That is true. It is the freight rates situation which is intensified by the statutory rates.

Q. What about the -- the Board seems to suggest that it is not only the statutory rates.

A. I think the suggestion here is that the freight rate structure itself has had problems, or has created problems, because of the statutory rates.

Q. Oh. Do these factors indicate that it is the freight rate structure itself that is largely responsible?

A. Intensified by the grain traffic.

Q. Yes. I am referring to page 91 of Volume 76 of the Canadian Railway and Transport.





Cases, and I am reading from the judgment of the Board --

A. Yes.

Q. I am reading the paragraph ahead of the one which you quoted:

"The fact that the competitive portion of the traffic had increased from 8.9 per cent to 21 per cent, and the agreed charges (largely based on competition) have increased from 2.4 per cent to 10 per cent, is substantial confirmation of the situation with regard to the class and non-competitive commodity rates."

A. Yes.

Q. "These factors indicate that it is the freight rate structure itself which is largely responsible for the situation in which the railways now find themselves, rather than any defects in the 'requirements' formula. This difficulty is intensified by the fact that the grain traffic ..."

A. Yes, and the answer is, Mr. Mauro -- or, at least, in my opinion it is this: It is true that we have to meet competition. Of course, we do, and that is very persuasive, but that competition has been much more severe by reason of the fact that the statutory rates have been exempted from all of the general increases which have been





been placed on other traffic in a greater degree.  
That has made more traffic subject to competition.

Q. The statutory rates, Mr. Edsforth, have remained somewhat constant as to their role in the operations of the C.P.R., but the deterioration caused by the grain rates structure have intensified the effect of the statutory rates on the C.P.R.'s revenue position?

A. I think it is the statutory rates that have intensified the deterioration of the freight rate structure.

Q. Do you agree with the statement in the Turgeon Royal Commission's report of 1951 at page 252 --

A. Just a moment until I get it.

Q. I am sorry.

A. I have it right here. Page 252, did you say, Mr. Mauro?

Q. Yes, page 252, the second complete paragraph:

"The Railway Association of Canada estimates that the railways are losing at least \$50 million annually as a direct result of the competitive rates which they put into effect in order to meet truck competition."

A. That statement means that the Railway Association estimated that there were \$50 million of revenue which they could have obtained had it not been for competition. It does not mean they are losing







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that money in the sense that they are hauling the traffic for less than cost to that extent.

Q. No, we will take it for what it means.

A. I want you to be clear on it.

Q. Yes, surely. In 1951 the competitive factors were resulting in an approximately annual loss of \$50 million in revenue?

A. That is true.

(Page 1680 follows)





Q. What has been the situation since 1951?

A. Well, I can't put it into dollars; of course, competition has become more intensified, there is no question about it, and I would say in large measure, as I have said before, not only it is true, but in good measure, and competition has been more intensified because of the statutory rates.

Q. Now, Mr. Edsforth, at page 23 of the précis where you refer to the percentage of grain and grain products moving at statutory and related rates?

A. Yes.

Q. Could you possibly at some later date file with the Commission a percentage of grain to total ton-miles, not solely intra-Canadian traffic?

A. I can do that for Canadian Pacific only, I can't do it for all railways. This is for all railways, you understand, and it is taken from the Board's Waybill Study.

Q. Will you, perhaps, do it just for Canadian Pacific, Mr. Edsforth?

A. Yes. I think I could do it right now if you want it; I think I have it here somewhere.

Q. I assume, Mr. Edsforth, that just logic would make one conclude that on total international and intra-Canadian, that grain is a similar proposition?

A. Percentagewise on C.P.?





Q. Oh, I am just ---

A. On all railways?

Q. Yes.

A. That might be, but I can tell you what it is for C.P. ; I can only speak for them in this case. In the year 1958 the percentage of ton-miles on statutory and related grain in western Canada, expressed as a proportion of all freight ton-miles on the C.P., was 26.2, and the revenue contribution, also expressed as a percentage of total revenue contribution, was 9 per cent.

Q. And then for 1951?

A. 1951?

Q. Just so that we have it.

A. Yes, surely. Just a moment and I will make sure I am on the right line here. In 1951 the ton-miles as a percentage of total freight traffic was 23 per cent, and the revenue contribution was 9.3 per cent of total freight revenue.

Q. Now, as a rate man largely involved with rates, Mr. Edsforth, I suggest that rate figures such as 14 cents from Winnipeg to Fort William, and without taking into consideration items such as weight minimums, etc., it is a rather meaningless figure.

A. Meaningless in what way?

Q. It doesn't tell the whole story. You can have a rate, say, at 14 cents per hundred pounds from Winnipeg to Fort William, and another rate at 30 cents per hundred pounds from Fort







William to Winnipeg, and the 14-cent one might be a more profitable business?

A. That may be, Mr. Mauro, but if I have a rate of 14 cents from Winnipeg to Fort William at any minimum weight it would be most unprofitable.

Q. I was getting in the principle which I think is rather important in our subsequent discussions, and I am referring again to the Parliamentary Committee in 1922, the evidence of Mr. Lanigan; I understand he occupied your position in the C.P.R. then?

A. Yes, he was General Freight Traffic Manager, I think.

Q. And he was being questioned by Mr. McCrea from British Columbia, who felt a little sad about the lumber rates, and this tradition has gone forward to the present day.

MR. SINCLAIR: I haven't had any complaints from the lumber people about their rates.

THE ACTING CHAIRMAN: They have been very silent.

MR. SINCLAIR: Yes, I haven't heard a word from them.

MR. MAURO: I will be finished in a very short while, Mr. Chairman.

Q. At page 64 Mr. McCrea asks a question of Mr. Beatty:

"Q. Mr. Beatty, I notice you say the proposed reductions you think could stand are 16.66 per cent in the case of grain and 11.70 on lumber and forest products. What is the





reason for that difference? If I am rightly informed -- and I think I am -- the rate on lumber is very much higher today than the rate on grain for the same mileage. As a matter of fact, if I wish to ship a carload of lumber from any point in the West to the seaboard, the rate is nearly twice as high as the rate on grain. Recently I requested from your Company the rate of lumber for export for a point 400 miles east of Fort William to Montreal, and you quoted 34 cents per hundred; whereas I believe you are carrying wheat from Fort William, and even farther west than that point to the seaboard at a much lower rate?

"A. Mr. Lanigan will answer that question.

"Mr. Lanigan: There is a lower rate on grain than on lumber. The rate on grain from the Northwest is a continuation of the western rate, and is made in competition largely with the rates from Duluth or the rate by boat from Fort William. Grain loaded at Fort William destined to any eastern point or for export loads about 88,000 pounds per car and higher, running up to 120,000 pounds. The minimum on lumber is 40,000 pounds. Therefore the earning per car on lumber with a higher rate is much less than the earning per car on grain."

Mr. McCrea goes on, he is not satisfied:

"Mr. McCrea: Is it not the practice of





all the railway companies that the more valuable the article transshipped the higher is the rate of freight. That is, you charge a higher rate of freight on some classes of goods than on others because they are more valuable. Take it on that basis; the wheat that you are shipping from the western points is worth at least twice as much per hundred as lumber, yet you charge us a very much higher rate.

"Mr. Lanigan: We do not get as high a rate on grain as on lumber. You are getting a rate of 34 cents on a car of 40,000 pounds, and you said the rate was 31 cents on a car loading 120,000 pounds from Fort William. If you are supplying two cars, which of the two classes of traffic is most desirable, the one at 31 cents for a car loading 120,000 pounds or the one loading 40,000 pounds at 34 cents?"

Do these principles apply in present day economics, Mr. Edsforth?

A. Well, you do look at the per car revenue, of course, that is certain, but that is not the only basis; you look at your per car, per car-mile, per ton-mile; all of those are significant indicators of any rate.

Q. It is important, therefore, that one go beyond the simple rate factor itself; the statement of the rate from Winnipeg to Fort William in itself doesn't give the whole story?

A. It doesn't give the whole story, that







is true, but again I say a rate of 14 cents from Winnipeg to Fort William, at any rate, I would say is far, far too low.

Q. I have one final question because you were candid enough to comment on a series of questions covering a very varied field, and I would ask for your comments in regard to the ambit of this investigation and a statement of the Acting Prime Minister on November 27, 1958. As it appeared in the Winnipeg paper, the Acting Prime Minister is quoted as follows:

"It is, however, recognized by the government that there are serious inequities in the present freight rate structure which have both contributed to, and been aggravated by, the system of horizontal rate increases. The government has already indicated its intention to move towards a solution of these problems.

"A study is being undertaken at once to work out measures to relieve against inequities in the freight rate structure, including any that may be aggravated by the present increases.

"Steps are also being taken to set up a suitable body to review the general field of railway problems and policy. This study will include not only a comprehensive consideration of the railway freight rate problem -- including the situation of the long haul provinces in the west and in the Atlantic region -- but





also other specific problems which require solution if Canada's railways are to serve the national interest without prejudicing particular industries or areas."

Do you think that that is a fair statement of the situation at the time, Mr. Edsforth?

A. I am sorry, I don't quite understand that question, really, Mr. Mauro.

Q. Do you agree with the Acting Prime Minister that there were inequities?

A. Yes, because I explained it.

Q. How about horizontal increases?

A. I don't think they are an inequity; I don't agree that that is an inequity.

Q. You will agree?

A. That the horizontal increases are? No, I don't agree.

Q. Your comment on the Acting Prime Minister's statement is that he should continue to be the Acting Prime Minister?

A. I have no comment to make on that at all. He is entitled to his opinion and I have mine.

Q. Just one final question; you mentioned, Mr. Edsforth, that there were three touchstones of testing the rate; there is the revenue per car, the revenue per car-mile and the revenue per-ton-mile?

A. Yes, those are guides that you look at.

Q. Are any of these three more important





than the others, a better incident?

A. Well, I do think that the per ton-mile and the per car-mile are the important things because you measure the revenue against the length of the haul.

MR. MAURO: Thank you very much, Mr. Chairman.

THE ACTING CHAIRMAN: Thank you, Mr. Mauro.

Mr. Frawley?

CROSS-EXAMINATION BY MR. FRAWLEY:

Q. Mr. Edsforth, you said this morning that you didn't think it was a good thing to have a rate scale held down in perpetuity like the Crow's Nest Pass?

A. Yes, I did say that.

Q. You agree with that?

A. I do. I said that.

Q. What are your views upon the holding down in perpetuity that took place with regard to the right of the Province of Alberta to tax the main line of the Canadian Pacific Railway Company?

A. Mr. Frawley, I am not qualified to comment on that, I don't know.

Q. Mr. Edsforth, you are not going to suddenly lose your status now as a competent witness for the Canadian Pacific?

A. Yes, but as a traffic man I have nothing to do with that, Mr. Frawley.

Q. I am talking about things that last forever and ever, and that is why you don't like the Crow's Nest Pass rates that lasted forever and ever







and were in perpetuity?

A. Well, they have so far.

Q. You are aware that Alberta was created by the Statutes of Canada, 1905, and there actually was inserted a clause which reads as follows, it is section 24, "The powers hereby granted to the said province shall be exercised subject to the provisions of Section 16 of a contract set forth in the schedule to Chapter 1 of the Statutes of 1881, being an Act respecting the Canadian Pacific Railway Company."

You know what that meant, Mr. Edsforth?

A. No, I really don't.

Q. I will put it to you that that Section 16 of the contract which appears in the Statutes of 1881 was a provision that said that forever hereafter the Province of Alberta shall not have the right to tax the main line of the C.P.R. in any respect, and that situation continues right to today. You are surely aware of that?

A. Well, I have some knowledge of it, but I am certainly not thoroughly conversant with it.

Q. You are a Vice-President of this Company now, Mr. Edsforth?

A. Yes, I know, but I am Vice-President of Traffic.

Q. You were aware that the taxes we are able to impose upon your main line from Medicine Hat to Field is even less than the 1897 rates?

A. I didn't know that.

Q. It is zero. You have not heard of





the Canadian Pacific Railway Company endeavouring to have that agreement varied, Clause 16 of the Contract of 1881?

A. I have no knowledge of it, Mr. Frawley.

Q. I have not heard about it either.

MR. SINCLAIR: I would like to say that the Province of Alberta tax rate in 1897 was also zero; that was before it was born.

MR. FRAWLEY: Q. And your people in Montreal took pains to see that the infant child was never even going to be allowed to exist for one moment with the right to tax your main line. However, that is the situation, in perpetuity, and I just wanted to call your attention to it so that we could examine the evils of perpetuity a little more objectively.

Now, tell me this, please, Mr. Edsforth, did your railway apply the westbound Crow rates to stations other than the main line stations?

A. What period are you talking of now, Mr. Frawley?

Q. Would you tell me whether you applied it at any time?

A. They were applied, of course, but the westbound commodity rates were reduced in 1898 under the terms of the Agreement, and that applied to all the stations then on the Canadian Pacific line in western Canada.





Q. Yes, that is right, that was the original situation.

A. That was the original situation.

Q. Now, as the years progress -- that was my question -- did you ever apply those westbound rates to stations other than stations that were in existence at the time of the commencement of the agreement?

A. Yes, I believe we did.

Q. You did that voluntarily?

A. Yes, that was voluntarily.

Q. Now, actually, looking at the Manitoba Agreement, you extended the eastbound rates right back to Calgary on the Canadian Pacific main line?

A. Yes. We wanted to assist Alberta.

Q. You wanted to prevent discrimination; that is really what you wanted?

A. I don't know. We wanted to get the relationship.

Q. You wanted to maintain the rates?

A. Yes.

Q. So voluntarily you accepted those rates which were even more than the Crow's Nest rates as the Manitoba Agreement described them, and you voluntarily extended those right back to Calgary.

A. We only did a lot of those things because of the Manitoba Agreement, Mr. Frawley.

Q. But it was voluntarily on your part; you were not a party to the Manitoba Agreement?

A. Yes, that is right.

Q. But you realized you could not live







out there without that?

A. There was a competitive position out there, I agree, and we decided to meet it.

Q. And you extended it to maintain relationships to prevent discrimination to help the new country, you extended it back to Calgary?

A. But not in the same measure.

Q. And then still more as new branch lines were built you extended it to new branch lines?

A. Yes.

Q. So the whole Canadian Pacific system, as it was then, got the benefit of the Manitoba rates?

A. To a greater or lesser degree, that is true. That is in Western Canada you are talking about?

Q. Yes, and that was all voluntarily on your part?

A. Yes, that is true.

Q. Now, I want to discuss with you the impact of this agreement upon your system, this Crow's Nest Pass Agreement as it now operates, and, of course, you say and Mr. Sinclair says it is no more an agreement.

A. That is right.

Q. You say that is right?

A. It is no more an agreement.

Q. Section 6 says:

"Notwithstanding anything in subsection  
6 of Section 328 --"





which is the Railway Act of today --

"Notwithstanding anything in subsection 5, rates on grain and flour shall, on or from, the 27th day of June, 1925, be governed by the provisions of the agreement made pursuant to Chapter five of the Statutes of Canada, 1897."

Now, it goes on, and I will go on, but I will stop at the comma after "1897". Now, up to that part of the subsection the statute simply said we will restore the Agreement of 1897 with regard to the original rates.

A. Yes, but it goes beyond that.

Q. Of course, certainly, it went on and required you to apply the rates to all your stations in Western Canada.

A. That is right.

Q. And that statute was passed, as you have discussed with Mr. Mauro, as a direct result and immediate result of the judgment of the Supreme Court of Canada which said that your attempt to not apply it to all of your system was quite a legal and valid thing to do.

A. Yes, that is so.

Q. However unacceptable in every other respect except legally, the Court did say it was a legal thing to do.

A. Yes.

Q. And, of course, if you had been alive





at that time, you will probably agree with me that the people who advocated that were just making sure that such a statute would be passed.

A. I was alive at that time. I am not that young, I assure you.

Q. You were not vice-president of Canadian Pacific?

A. No. I was just starting out.

Q. I suggest to you that the action of Canadian Pacific, quite justified as it was at that time -- they in their own minds just made sure that Parliament would have to intervene and by statute apply those rates all over Western Canada to prevent the chaos which would have resulted.

A. Well, Parliament certainly did take that action to prevent chaos, but the amendments to the statute and the reference to the agreement of 1897 is only to be descriptive.

Q. If you had been in those days vice-president of traffic for Canadian Pacific, you wouldn't have had liked the job of administering freight rate structure as it would have been following that judgment if the statute I have read to you had not been passed.

A. It would have presented a problem, but I have them all the time.

Q. Now, you make the statement at page 18 of your precis that the railways -- at the end of the first paragraph, starting the third last line --







"... with the result that the railways and shippers of other commodities have been left to carry these additional costs."

A. Yes, I see that. Yes, Mr. Frawley.

Q. Now, you indicate in the substantial part of that paragraph that that is because you have not been able to put any increases on the export grain rates.

A. That is right. It is the additional cost referred, the share of them.

Q. You have gone to the board recently for a series of increases -- and by recently I mean over the last 10 years -- for increases in freight rates, page 17 of your precis, to furnish you with the funds to meet those increased costs.

A. Yes, to give us increases.

Q. And that is increases in operating the railways in Canada?

A. Yes, it is.

Q. You have a very -- I won't say inconsequential, but you haven't a very much mileage out of Canada?

A. We have some mileage in Maine and Vermont.

Q. You were one of the witnesses in the Taylor Conciliation proceedings in 1956?

A. Yes.

Q. And on page 20 you find there even a little more specifically the proposition stated that





I am discussing with you, and on page 20, the first paragraph, the last sentence, you say:

"The results of the fixed statutory rates on grain and grain products were full explained to the conciliation board, as well as the increase in competition, particularly from motor carriers, and the ability of the railways to spread increased costs over all freight traffic because of the statutory grain rate."

A. That is right.

Q. Now, did you tell Mr. Taylor that you had not been able to and, in any event, that you had not put the increase of -- that was in 1956, so going to your page 17 and looking at those cases that you have, going from the bottom up in 1958, there was an increase of 17 per cent?

A. Yes.

Q. You were not able to put that on the international and related rates?

A. No, only to the extent of border combinations. We explained that to Mr. Taylor and we explained we got increased rates to carry the costs.

Q. And did that apply to the 9 per cent?

A. Yes. I don't know that I went over all these cases.

Q. The fact is that starting with the last increase and going up, the increase of November 1st, 1958, you neither can, nor have you attempted to,





put any part of this increase on the international and related rates.

A. No, but that traffic does carry its own increases.

Q. The 17 per cent that you got on December 1st, 1958, and the 11 per cent on January 1st, 1957, were to take care of increased Canadian costs.

A. Yes. But a greater increase would have been necessary if we hadn't been able to get our increased rates on international and overhead and import and export traffic.

Q. Did you tell the Taylor Board -- that was in 1956, so you couldn't have told them anything about the 17 per cent and the 11 per cent increase?

A. No.

Q. Did you tell the Board of the rapidly increasing volume of agreed charges which could not take increases except where there were escalator clauses.

Q. We told the Taylor Board we had to make increased charges, and as to getting increases, I don't recall that we couldn't get them except by escalator clauses. If I did so, that wouldn't be a fact. We get increases through negotiations.

Q. Would you tell me this, looking at page 17 -- and if you can't answer me now I would be very glad to have you answer me later or file a statement -- would you tell me, looking at those exhibits -- and you can work either down from April 8th, 1948, or up from December 1, 1958 -- which of those increases







that are specified, 21 per cent, 20 per cent, 17 per cent, 9 per cent, 7 per cent, 11 per cent and 17 per cent, you have actually put upon your agreed charges?

A. You mean in total or in part?

Q. No, I just want to know in how many agreed charges have you put the 17 per cent increase?

A. I think I have a figure for that. Those are the ones with the automatic escalator clause, and I think we have 12. We got it automatically, and then we have increases in individual ones. I have here page after page of them. It is the increase we could get, whatever we could get.

Q. You are telling me that you are constantly endeavouring to re-negotiate your agreed charges and get the rates up?

A. Yes.

Q. I am talking about the ones with the Board authorized increases, and you tell me there are 12 agreed charges where you put on that 17 per cent increase?

A. Automatically.

Q. It went on, automatic or otherwise, and you are enjoying the 17 per cent increase in 12 agreed charges?

A. Yes. Of course, plus any that come in under the modified escalator clause, which you know is slightly different in its wording, and that takes effect later on.





Q. It is quite different, and the escalator clause, the modified escalator clause, as you have called it, simply says:

"If any general increase in freight rates be authorized by the Board of Transport Commissioners for Canada, the Agreed Charge set out in the paragraph 'D' of this Agreement shall be increased in the same proportion, except that no increase shall be made until the agreement has been in effect for a period of one year."

A. A period of one year.

Q. A period of one year?

A. Yes.

Q. And, of course, by that time the agreement might have been cancelled and --

A. It may be, but actually that increase has gone on quite a few with escalator clauses.

Q. The next increase is the 11 per cent which became effective on January 1st, 1957. Would you tell me on how many agreed charges you were able to put that percentage increase?

A. I would have to get that for you.

Q. Would you do the same with respect to all of the various increases, starting with the 8th of April, 1948.

A. And in relation to the number of agreed charges that were in effect at that time. Of





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Edsforth, cr.ex. 1702  
(Frawley)

course, you will understand that a lot of the agreed charges made this year or last year have taken place on commodities right from the beginning. Nevertheless, that traffic has borne increases right along.

Q. You are, I am absolutely sure, endeavouring to minimize the effect of what went into your exhibit in the 17 per cent case which appeared on page 29 of the decision of the Board, dated November 17th, 1958, in which you stated that you expected to get, percentagewise, one and three-quarter per cent of the 19 per cent that you were seeking, but you expected to get one and three-quarter per cent of that from agreed charges.

A. That is what we expected to get, but I am quite certain in the evidence we expected to get more than that by re-negotiating on agreed charges.







Q. That is right. Now, when you went before the Taylor Board discussing the amendment did you tell the railways -- did you tell the Board you were facing the branch line deficits?

A. I do not recall that I did -- I certainly did not.

Q. Has the C.P. any deficits in branch lines that operate unprofitably?

A. Yes, we have a few in western Canada and we have some applications in at this stage.

Q. Now, the applications are for the purpose of probably abandoning some of these branch lines?

A. Yes, that is right.

Q. And to get rid of the deficit position that they represent?

A. Yes, that is right.

Q. But as of now and as of the 31st of December, 1959, you certainly will have a deficit position from the operation of branch lines in western Canada?

A. I do not know what it will be. I have no idea.

Q. I was not asking what it would be. I say you have deficits on branch lines?

A. Some of these branch lines will not be earning their proper revenue.

Q. How about in central Canada, you have some of the same kind?

A. At the moment I cannot recall any.





Q. Having said that, and I will accept the result, would you mind making a careful analysis, as careful as you can, to let me know whether or not the whole of what we know as central Canada, you might call it Ontario and Quebec, you have not one single branch line which is in a deficit position?

MR. SINCLAIR: I think this same question was put only even broader lines in the letter of Mr. Frawley's of November 27th to which, on behalf of C.P. certain objections were taken and we are awaiting a decision from the Commission on that.

THE ACTING CHAIRMAN: Perhaps you could withhold that question, Mr. Frawley.

MR. SINCLAIR: Mr. Frawley must have overlooked that.

MR. FRAWLEY: I am overlooking it, and I will be glad to overlook it. I am hopeful now that I am going to get a good answer to that question.

MR. SINCLAIR: I hope you do. It is just like the man who looked for justice and got it and wished he had never asked for it.

MR. FRAWLEY: Q. Now, Mr. Edsforth, what really is the problem of the C.P.R. is the fact that they have lost a great deal of remunerative traffic to highway transport.

A. That is one of our problems, certainly.

Q. Can you point to any greater problem than the C.P. has traffic-wise than the fact that they have lost so much to the trucks?

A. I certainly think the problem of





statutory rates is one which is in part responsible for the fact we have lost ---

Q. Well, now ---

MR. SINCLAIR: Let him finish. I am sure he is trying to be helpful to you.

MR. FRAWLEY: Yes, he is trying to be helpful to me, I am sure of that.

Q. Did you have something to add Mr. Sinclair would like you to add something.

MR. SINCLAIR: You are both talking at once.

THE WITNESS: I was trying to answer and you did not hear me. All I say is that the problem of the statutory rates is, in my opinion, a greater one and it is contributory to our other problem of motor truck highway competition.

MR. FRAWLEY: Q. This is what you are interested in, the business of dollars is what you are interested in?

A. Yes, the revenue is what we have to have.

Q. You are seeking to amend the agreement of 1897 to add something, namely the amendment to give you more money, to double the rates?

MR. SINCLAIR: Mr. Chairman, I think it is improper for my friend to put a question like that when he knows that the Agreement of 1897 was varied by the Government of Canada in 1925, and I take it it is an improper question in view of the finding of the Turgeon Commission in that regard that it was put an end to.







THE ACTING CHAIRMAN: Go ahead, Mr. Frawley.

MR. FRAWLEY: Q. You are endeavouring to obtain from the Government of Canada a sufficiently great amount of money that will double the per ton-mile revenue that you get from moving grain to export positions in western Canada?

A. We are endeavouring to get a base on rates on grain moving to the Lakehead and other export positions that will pay its proper share of costs.

Q. As a matter of fact, you are endeavouring to get full cost for the purpose of moving your grain?

A. We should.

Q. Your agreement says you think you should?

A. Because the traffic is basic to the plant; you cannot cost traffic which is basic to the plant on an incremental basis or anything like that.

Q. So you are now asking, however, short you are getting on full cost on other traffic, you want full cost to move the grain to export positions in western Canada?

A. Yes, because I say it is basic traffic to plant -- the plant was more or less created for it; it is basic to the whole plant.

Q. Let us compare dollar-wise the deficiency of your grain handling operation and the deficiency of operating with the trucks having taken business away from you?

MR. SINCLAIR: Perhaps we will have to discuss that tomorrow if we are going to stop at four o'clock.





THE ACTING CHAIRMAN: Perhaps if Mr. Edsforth would give his mind to that tonight we can come to that question tomorrow.

MR. COOPER: Before we adjourn I think Mr. Edsforth wanted to correct one answer which he gave in answer to a question of mine this morning. This is a small matter but Mr. Edsforth is anxious to have the record accurate.

MR. EDSFORTH: Thank you. In answer to a question asked me this morning dealing with the grain crop in 1958 I stated it was 829 million bushels and you asked me how much of that was shipped. I gave the answer as 373,443,060 bushels. Inadvertently I left the impression that that was all grain, but the figures of the bushels shipped were for wheat alone. I just wanted to make that clear.

THE ACTING CHAIRMAN: We will not be sitting here tomorrow morning so when we adjourn we will adjourn until two o'clock tomorrow afternoon. This court room is going to be used tomorrow morning by the Board of Transport.

MR. SINCLAIR: Before we adjourn, and I think my friends would find this of assistance to be told which memorandum will next be dealt with by the railways, and if it would help them in that regard I want to say I do not know how long Mr. Edsforth's cross-examination is going to take, but it was our plan to call as the next witness Mr. Reid who will deal with the memorandum regarding grants and obligations with respect to the construction of the Crow's Nest line. Now,





because of certain commitments of another witness it may not be possible for us to follow that plan. It depends on timing because of this witness' other commitments, and so as an extra bonus to my friends so they will not have to worry about this too much and they can start within five minutes, they should then look at the memorandum regarding costs on capital because it might be that the effective time might require that that witness be called in ahead of Mr. Reid. This all bears on how we are proceeding.

MR. FRAWLEY: Let us be very clear about it. Perhaps it is as good a time as any now to mention something else. I propose not to cross-examine on the cost of capital at all because it is all in my friend's cost study. I would have some objection to it in any event. In my opinion my friend is trying to do violence to the Board of Transport Commissioners, that this Commission should recommend their rates go on a rate basis and rate of return. Perhaps we should declare ourselves now. I propose to make an application just as soon as Mr. Reid takes the box, or whoever the man is ---

MR. SINCLAIR: It is Charles W. Smith, an old friend of yours.







MR. FRAWLEY: Well, well, well. As far as I am concerned Mr. C. W. Smith will be given evidence with respect to the costing of grain in Western Canada and I hope to avail myself of the kind telegram which I got from Mr. Anderson that said when we got to the question of costing we could apply for an adjournment of our cross-examination.

MR. SINCLAIR: My instructions are that I must oppose any application that is made. Apparently Mr. Frawley is now giving me notice that at some time he will make it and in accordance with my instructions I will deal with it at that time. However, it is after 4 o'clock now. I am glad he has declared himself. He says "we" and I do not know if it is the editorial "we" or speaking on behalf of others.

THE ACTING CHAIRMAN: That includes Mr. Mauro?

MR. MAURO: Yes.

THE ACTING CHAIRMAN: Mr. MacKimmie?

MR. MacKIMMIE: Yes.

THE ACTING CHAIRMAN: Mr. Dickson?

MR. DICKSON: Yes.

MR. SINCLAIR: These powerful interests are still together. We have notice of that and at the appropriate time we will argue it. In any event, in accordance with my instructions I am presenting witnesses to put in his evidence in chief and I will certainly, and I give notice to my friends, that if and when their motion is made and they may reconsider that if and when it is made we will





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(Frawley)

object to handing down any of the witnesses that we have proposed to call. Furthermore, Mr. Anderson was good enough to send to me a copy of the reply that was given and I am afraid that Mr. Frawley and I are going to have to argue the interpretation of an official document from this Commission.

THE ACTING CHAIRMAN: We will adjourn now until 2 o'clock tomorrow afternoon.

--- Whereupon the hearing adjourned at 4.05 o'clock to resume at 2 p.m. Tuesday, December 8, 1959.











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AND EXHIBITS

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EDSFORTH, C.D.

Cross-examination (Resumed)

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EXHIBIT NO. 52: Estimated results of a  
general freight rate in-  
crease of 19 per cent  
Canadian Pacific Railway  
related to Exhibit 58-22  
on page 30 of the Board  
of Transport Commissioners'  
Judgment dated November 17,  
1958 (17 per cent Case). 1732

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## ROYAL COMMISSION ON TRANSPORTATION

Proceedings of hearings held in the  
Court Room, Board of Transport Com-  
missioners Offices, Ottawa, Ontario,  
on the 8th day of December, 1959.

### COMMISSION

|                            |                 |
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| Mr. M. A. MacPherson, Q.C. | Acting Chairman |
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| Mr. A. H. Balch            | Member          |
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| Mr. A. G. Cooper, Q.C. |         |
| Mr. G. S. Cumming      |         |
| Mr. H. W. Ellicott     | Advisor |

|                    |                     |
|--------------------|---------------------|
| Mr. F. W. Anderson | Secretary           |
| Major N. Lafrance  | Assistant Secretary |

In the absence of The Honourable Mr.  
C. P. McTague, Q.C., Mr. M. A.  
MacPherson, Q.C., presided.





Ottawa, Ontario,  
Tuesday,  
December 8, 1959

--- On resuming at 2.00 p.m.

THE ACTING CHAIRMAN: Will you come to order, please, gentlemen. I will ask Mr. Cooper to read first a couple of rulings of the Board.

MR. COOPER: The first ruling, Mr. Chairman, is as follows:

On Friday last at page 1292 of the record Mr. Sinclair suggested that there be an interim report of this Commission on what he termed "this significant grain issue". The Commission has considered this suggestion and unanimously rules that its conception of its duty under its terms of reference is that no interim report on this segment of the Transportation Economy should be issued, but that its report when made should cover a much broader area. The Order in Council requires "a comprehensive and careful enquiry into problems relating to railway transportation in Canada and the possibility of removing or alleviating inequities in the freight rates structure".

That is the first of the rulings, Mr. Chairman. The second is:

At the preliminary organizational meeting of the Commission held in Ottawa on September 17th and 18th last, the Commission made a ruling with regard to the admissibility of evidence on general labour relations and alleged restrictive labour practices. This ruling was as follows:







"In connection with the submissions received yesterday in regard to the Commission admitting evidence on general labour relations and alleged restrictive practices we all are of the opinion that in view of the fact that these relations are governed by voluntary collective agreements and that there exists legislative machinery for dealing with the collective bargaining process, and that the Canadian Labour Relations Board has jurisdiction in some of the matters, and that the Department of Labour is presently inquiring into some of these matters in connection with suggested amendments to the Industrial Disputes Investigation Act, such evidence is not admissible, and we so rule. This ruling is subject, however, to proof or evidence of conditions which are contemplated in specific sections of the Railway Act or in the Canadian National-Canadian Pacific Act, or the Transport Act, mostly in regard to separation and that sort of thing. That may prove to be a relevant part of labour here, but we do not know. However, at this time we are accepting that as a general rule".

Representations on the question of the admissibility of evidence on labour costs were made to the Commission at its sittings held on Saturday,





December 5th last, Mr. Blair, Mr. MacKimmie and Mr. Mauro on behalf of their respective clients, and the question thereupon arose as to whether the matter was covered by the ruling previously made.

The Commission has carefully considered the representations made by Counsel and as well what was said with respect thereto by Counsel for the Railways (C.P.R. and C.N.R.) and has decided that the ruling made on September 18th last should stand without alteration or amendment.

However, as there appears to be some uncertainty as to the ambit and effect of the ruling of September 18th last the Commission considers that it would be of assistance to all concerned to issue a further ruling supplemental thereto in the following terms:

"The Commission will not admit evidence which directly relates to matters within the field of labour-management relations and which form part of the collective bargaining process between the railways and the representatives of their labour forces."

The Commission wishes to add that it recognizes that evidence sought to be adduced may involve or affect the relationship of labour to the railways without falling within the ruling of September 18th last and the supplemental ruling just given but the determination of such a question





in any particular instance must be determined by the Commission when such evidence is tendered.

The Commission considers, however, that this supplemental ruling will give sufficient guidance to Counsel to enable them to advise their clients on this question.

THE ACTING CHAIRMAN: Gentlemen, just before we adjourned yesterday a question came up as to the evidence of Mr. Smith.

MR. SINCLAIR: I must say, Mr. Chairman, that I have made certain changes, and I am not now proposing to call Mr. Smith as my next witness. I indicated that my next witness might be Mr. Reid or Mr. Smith, but my next witness will be Mr. Reid.

THE ACTING CHAIRMAN: Just to have the record clear, Mr. Sinclair, do I understand the precis of evidence which we had as being a submission in favour of a recommendation of a method of fixing a permissive level of rates by the Board of Transport Commissioners be changed --

MR. SINCLAIR: No.

THE ACTING CHAIRMAN: There is no suggestion that there be involved a trial within a trial?

MR. SINCLAIR: No, sir, none whatever.

THE ACTING CHAIRMAN: Thank you very much.

MR. FRAWLEY: Of course, I completely disagree with my friend, and so that it be on the record I will say that that is just nothing but an attempt to cost grain moving to export positions in Western







Canada using a rate of return on the investment. That, to me, is getting back to a rate basis and rate of return that was rejected. My friend has a lot of things to say to the contrary, and that will be discussed.

THE ACTING CHAIRMAN: Yes, when you introduce the evidence we will hear the argument, but for the purposes of the record I want it to be clear that we are not having a trial within a trial.

MR. SINCLAIR: That is quite right.

THE ACTING CHAIRMAN: Mr. Frawley?

CROSS-EXAMINATION BY MR. FRAWLEY (Continued):

Q. When we adjourned yesterday, Mr. Edsforth, I was endeavouring to compare dollarwise the deficiencies on your grain handling operation and what I called in that question on page 1708 the deficiency of operating with the trucks having taken business away from you?

A. Yes, Mr. Frawley.

Q. That is what I wanted to continue with today, Mr. Edsforth.

A. Yes.

Q. I would like to read from page 252 of the report of the Turgeon Royal Commission. This passage was read before, but it is a very short passage. It is on page 252 and reads as follows:

"The Railway Association of Canada estimates that the railways are losing at





"least \$50 million annually as a direct result of the competitive rates which they put into effect in order to meet truck competition."

Mr. Gordon was asked about that, and he said at page 1340 in answer to my friend, Mr. MacKimmie -- Mr. Gordon accepted that statement because he recognized it as an official statement by the Railway Association of Canada, and then having said that he said:

"That being the case, I would accept the figure."

A. Yes.

Q. And then Mr. MacKimmie went on and said:

"So since then you have been losing more? It is greater now?"

And Mr. Gordon said:

"I would think so, yes."

You would be in agreement with Mr. Gordon, Mr. Edsforth?

A. Well, Mr. Frawley, in all depends on how you consider the term "losing revenue". What is meant by that statement of the Railway Association, sir, in my opinion, is that that was the revenue that might have been obtained from certain





traffic but for the fact that rates had to be reduced, but it does not mean that they were losing money on that traffic. They were not losing money.

Q. No, it means -- when you are carrying traffic today and one of Mr. Hume's clients starts to carry it you immediately lose that traffic?

A. Yes.

Q. And you lose the money you would have got from that traffic?

A. You lose the revenue from that traffic also, Mr. Frawley. When you reduce rates you get less revenue from the traffic, but you do not lose money in the sense of the words "losing money" unless you go below your cost.

Q. Of course, I am not going to argue what the Railway Association meant. Perhaps if we did a little bit more research we could dig up what the Railway Association said, because you are now endeavouring to put your own complexion on it that unless it is below bare out of pocket cost you are not losing money. Is that the interpretation?

A. The only interpretation I put on this, Mr. Frawley, is that there were \$50 million of revenue that the railways had not been able to earn because of competition, but it does not mean they lost it in the sense of the words that it was an out of pocket loss.

Q. Here is how you lost it; I will put it to you again that if you are handling a certain







piece of business and one of the trucking companies takes it from you and handles it, then from tomorrow onwards you have lost what you are earning today?

A. That is quite true, Mr. Frawley.

Q. All right. Have you any estimate now as to what that figure of \$50 million might be, say, for 1958, because you will remember that that was a 1950 figure, or it was a figure that was put in in 1950 when that page of the Turgeon Royal Commission's report was written.

A. No, Mr. Frawley, I have no estimate at all of what revenue we might be earning but for motor truck competition.

Q. Do you think it would be twice \$50 million?

A. I could not say.

Q. Truck registrations are up enormously since 1950?

A. That is so.

Q. Yes, and that is so in every province in Canada?

A. Yes.

Q. And there is no doubt about it that with the rise in truck registrations and the rise in costs, and all the other methods you have of measuring it, the force of competition is still very serious?

A. The force of competition is a very serious matter.

Q. And when the trans-Canada highway is built and operating as a single unit the situation





will be even more detrimental so far as the railways are concerned?

A. It may well be. We shall have to wait and see.

Q. You will recall the statement made by Mr. George Walker before the Turgeon Royal Commission in which he discussed some of the possibilities of the building of the trans-Canada highway?

A. I do not remember them distinctly, Mr. Frawley.

Q. Well, the more that the highway industry is facilitated by good highways and more reciprocity on load weights, the more those things develop then the more strong and forcible becomes the competition?

A. Yes, and the more our rates have to be increased to meet increased costs when all the traffic does not take part of it.

Q. And the worse it gets for the segment of the traffic that you are always able to increase.

A. And the other traffic as well -- the traffic that is competitive with the trucks, too. By exempting the Crow's Nest rates the rates obviously become higher on the other traffic and that makes it that much more vulnerable to truck competition.

Q. It is a serious situation. I will not say it is a hopeless situation, but it is a troublesome and frustrating situation in any way you look at it. Let me put it to you what Mr. Gordon said at page 1378 of Volume 11:





"... the railways develop the country and get into remote areas and the community builds up and roads are established and alternative routes are established and there is not enough left for the railways."

And that is the way it goes, Mr. Edsforth?

A. In some instances it does, Mr. Frawley, but that is not a general condition. We are still in there handling traffic, and we expect to be.

Q. Now, as against the situation that you are faced with by truck competition on the one side let me have you take a look at what you are losing on export grain. There we have the figures, of course, very handy, and they are all nicely collected in the joint submission at page 10 -- no, it is the Canadian Pacific submission at page 10. I just want to pick two figures out of that --

A. I am sorry, Mr. Frawley --

(Page 1727 follows)







Q. I said the joint submission, but it is really your own submission, the Canadian Pacific submission and it is at page 10, and there the correct figures show that vis a vis the variable costs, you are losing \$17 million in 1958?

A. Yes.

Q And we can use just perhaps colloquially -- bare out-of-pocket is synonymous more or less with variable?

A. I don't know whether it is entirely synonymous.

Q. No, that is perhaps why these experts have got away now and are using variable rather than bare out-of-pocket?

A. I don't know; they have reasons for the terms that they use.

Q. I think as against total cost your loss in 1958 was \$35,300,000?

A. Yes, that is the extent to which that traffic was not improving its costs.

Q Its full costs?

A Its costs.

Q. Its full costs, using  $6\frac{1}{2}$  per cent rate of return on investment?

A. The cost however determined, Mr. Frawley.

Q. Well, I couldn't take you for a moment to indicate costing procedure, but if that is the figure that they used, then you are sure of full costs and in those full costs you have used, as I





understand it,  $6\frac{1}{2}$  per cent rate of return on the investment used in what they call the study traffic.

Now, will you look at the Judgment for the 27th of December, the Board's Judgment for the 27th of December, 1957, because I want to call your attention to a passage there?

A. Yes, December 27th, 1957.

Q. It is page 28 of the pamphlet copy that I have.

A. I think that is what I have, too.

Q. It is page 28 and it is the Judgment of the 27th of December, 1957?

A. Yes.

Q. Now, you will see there that they have taken the figures -- I have some copies of that Judgment and probably the Commissioners would like to see them -- it might be more helpful if we have those figures there.

THE ACTING CHAIRMAN: What is the page?

MR. FRAWLEY: Page 28, and I would like to add two columns, and if I have to seek the leave of my friend, I suppose it will be freely granted.

MR. SINCLAIR: Not before I find out what he wants to ask.

THE ACTING CHAIRMAN: You are not taking a pig in a poke?

MR. SINCLAIR: No, sir, and when Mr. Frawley wants to change the Judgment.

MR. FRAWLEY: Q. You see, the columns run out in 1956, and I have the 1957 and the 1958 figures; 1957 figures were supplied to the Board in the 19 per





cent Case by a letter from Canadian National counsel dated the 14th October, 1958, and perhaps with that authority my friend will let me ask the Commissioners to write in the percentages for 1957.

The first item, traffic at class rates, 9.4 per cent; traffic at non-competitive rates, 41.4; traffic at statutory grain rates, 9.9; traffic at competitive rates, 20.5; traffic at agreed charges, 12.3; traffic at combination rates, 1.5; traffic in mixed carloads, 5.0.

A. Those are 1957?

Q. 1957. Then I have 1958, and all I can say about that is that they were delivered to me by the Economics and Accounting Branch of the Board of Transport Commissioners not too long ago.

The 1958 traffic at class rates, 8.2; traffic at non-competitive commodity rates, 37.3; traffic at statutory grain rates, 10.5; traffic at competitive rates, 23.1; traffic at agreed charges, 13.8; traffic at combination rates, 1.9; traffic in mixed carloads, 5.2.

Mr. Edsforth, have you any estimate figures for 1959 or the first six months of 1959?

A. No, I haven't, Mr. Frawley.

Q. And these, of course, are waybill figures?

A. Waybill Analysis figures, yes.

Q. I thought you might have some independent ones of your own, but you haven't?

A. No, I haven't yet, Mr. Frawley.







Q. I suggest, perhaps, it is fair to say, looking at the figures, it is fair to say that the increase in the percentage of traffic moving on competitive rates and on agreed charges, is a measure of the vitality of the present competition?

A. This is revenue, is it not, Mr. Frawley?

Q. Yes, revenue.

A. And it could or it could not indicate that we are getting a little better rates due to increases which we have got.

Q. I am just endeavouring to make some comparison of the importance to you in your review of the deficiency in the export grain rates. I suppose, Mr. Edsforth, if it were possible for you to get back all of the traffic that you have lost to trucks, all of it, that you really wouldn't regard your deficiency on export grain rate as being very important?

A. Well, why not, Mr. Frawley? I don't see any reason why we shouldn't.

Q. Just as a matter of comparison, as a matter of proportion, if you could get back into rail revenue, something of the order of between fifty and one hundred million dollars annually, what would you care about losing \$35 million on the export grain rates and keeping the people of western Canada from being stirred up?

A. Well ---

Q. I am quite serious about it. I surely haven't got to argue with Mr. Sinclair on this.





MR. SINCLAIR: What about the people of eastern Canada being stirred up?

THE WITNESS: Mr. Frawley, I think that in my opinion no matter what the situation might be as you portray it, I still think the traffic should pay its proper cost of handling.

MR. FRAWLEY: Q. I am just endeavouring to inject a sense of proportion, and I say that your real problem -- the situation which you have been forced into by virtue of the unrelenting truck competition you have had to face in the last ten years -- is more important than what you are losing, if you are losing anything, on the grain rates?

A. Thirty-five million dollars, that is important at any time.

Q. So is \$75 million or \$100 million?

A. Yes, but they are still important figures.

Q. Now, I will let you have some idea of what the situation is today as compared to what it was when you were before the Board the last time in the 19 per cent Case, or the 17 per cent Case, as it turned out to be. Now, I would like to show you a statement, Mr. Edsforth, which you will recognize from the note up in the top right-hand corner as being merely a reproduction of your Exhibit 58-22 in that case?

A. It is the exhibit I introduced, I think, Mr. Frawley.

Q. And just to explain it in fairness to





you, your Exhibit 58-22 -- all that has been done is to telescope the coal and coke figures and to add some percentages; when you look at it that is about all that has happened to it?

A. There are two columns of percentages that have been added to my exhibit, column 3 and column 6.

MR. FRAWLEY: I am very sorry I haven't got a full complement of these figures.

THE ACTING CHAIRMAN: Are you filing that?

MR. FRAWLEY: Yes, I want to file that, and I will get the stencil to reproduce some more figures.

MR. COOPER: That will be Exhibit 52.

---EXHIBIT NO. 52: Estimated results of a general freight rate increase of 19 per cent Canadian Pacific Railway related to Exhibit 58-22 on page 30 of the Board of Transport Commissioners' Judgment dated November 17, 1958 (17 per cent Case).

MR. FRAWLEY: Q. Now, Mr. Edsforth, I just want the best opinion you can give me; if you went before the Transport Board today, say that you went before the Transport Board on your pending 12½, 12 per cent application, I put it to you that the 32.03 per cent -- you see that percentage as being the percentage opposite item 6, all other freight traffic?

A. Yes, I see it.

Q. Which constituted 32.03 per cent of







the total estimated revenue for that period that you selected, and I put it to you that that 32.03 per cent would be less?

A. All other freight traffic? Percentage-wise, Mr. Frawley?

Q. Just as you look at the whole exhibit.

A. I am trying to think whether it would be less or not. I can't say. I don't think it would be materially different, it all depends on how the other components move around, you know, how much percentage there is from the grain and how much from the international and how much from coal and coke.

Q. You can look at the percentages read into the record from 1958, and that indicates your agreed charges percentages revenue is up.

A. Yes, that is right.

Q. And your competitive rate is up?

A. Yes.

Q. And as that goes up the shrinkage goes on as against item 6, all other freight traffic?

A. That is so, Mr. Frawley, but you are talking about this year, and, of course, we haven't got the percentages for this year.

Q. That is right, you haven't got them, so the best I can get is the opinion of the most knowledgeable man in the C.P.R. on the subject. I am just wondering, as you sit in your office in Montreal and survey the situation, I put it to you that all other freight traffic is shrinking, constantly, inexorably, shrinking?





A It is, Mr. Frawley.

Q. Another way of describing that "all other freight traffic" is class rates and non-competitive commodity rates?

A. Yes.

Q. But, as a matter of fact, it was that traffic, that traffic which had shrunk to 32.03 per cent, but nevertheless was expected to contribute 73½ per cent of your increase of \$31 million that you wanted -- the question is, it was that rather extraordinary situation, having in mind those two figures, the 32.03 per cent of the revenue and 73.53 per cent of the increase that you were asking, it was that situation which, I put it to you, led to the enactment of the \$20 million subsidy statute which is now in force.

A. That may have been; Parliament had its own reasons for making that subsidy but, of course, Mr. Frawley, you know -- I know you do, as I appreciate too -- that the difference between the percentage on contribution and the percentage of the total revenue is brought about by the fact that there is a big exemption rate in the first line.

Q. And an even bigger one in the second line?

A. A bigger one in the second line, Mr Frawley; remembering always that that traffic has increased the revenue over the years through rate increases.





Q. Yes, but that doesn't contribute -- these increases you are asking for, the \$31-1/2 million that you need to pay your Canadian workmen -- no part of that would be from your international traffic?

A. Well, you can't put it on both ways, Mr. Frawley.

Q. You can't put it on both ways?

A. No. You can't have your Canadian and international increases all applying on the same traffic.

Q. So we have the situation whereby the Canadian portion of your international rate, such hauls as are represented by the movement, from, say, Northgate, Saskatchewan, to Edmonton -- you have the increased cost on that movement, you have those taken care of by increases which the Interstate Commerce Commission authorize.

A. Of course, the increases which we get are increases authorized by the Interstate Commerce Commission, as well as by the Board of Transport Commissioners -- because they also authorize increases -- those increases do contribute to increased expenses, no matter where they may fall.

Q. Would you look at page 29 of the same judgment. I want to continue on reading a few lines from the passage you have quoted in your precis, and in your precis it is -- well, excuse me, perhaps we had better look at page 10 of the joint submission. I think that is where it is.







Yes. You will see there you are quoting from pages 91 and 92 of 76 C.R.T.C.

A. 77?

Q. Page 10, paragraph 27.

A. Yes.

MR. FRAWLEY: Now, Mr. Chairman and members of the Commission, you will find that same passage at page 28 of the blue pamphlet which I have handed to you, and you will observe that the quotation ends:

"The Board must take notice of this fact and govern itself accordingly."

I would like to read just a few more sentences going on from there.

"With this traffic removed from consideration --"

That is the export grain traffic --

"--- and amounting to 11.5 per cent of the present revenue --"

And if I may say in parenthesis, I note it is now 10.5 per cent; in 1958 it was 10.5 per cent --

"--- and with traffic at competitive rates and agreed charges having now reached the total of 31 per cent--"

And I might add in parenthesis that those





two items were 36.9 per cent in 1958 --

"-- on which it is difficult, and in some cases impossible, to increase rates, there is a total of 42.5 per cent of the intra-Canadian freight traffic on which relatively less or no increases are proposed, leaving only 57.5 per cent of Canadian traffic for consideration by way of increased freight rates. Included in this proportion of 57.5 per cent is a very large amount of low grade traffic upon which the present rates may not be fully remunerative despite all the increases that have been allowed by this Board on the requirements basis."

That rather points up this constant process of shrinking the hard core of traffic upon which you are free to make increases.

A. Well, Mr. Frawley, we are free to make increases on all of our traffic except the statutory grain.

Q. And the agreed charges?

A. No, we are free to increase those, too, and we do.

MR. FRAWLEY: Well, I don't want to bring Mr. Edsforth back, but I may have to bring him back to indicate the number of times he has been able to apply the horizontal percentage increases





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(Frawley)

on agreed charges. We had evidence yesterday that there were 12 where there was the 17 per cent increase, and he was good enough to say the he would find what the situation was with respect to the earlier increases. I don't expect him to have it yet.

MR. SINCLAIR: We haven't had time to do it, Mr. Frawley. We will do it when we can.

THE ACTING CHAIRMAN: Mr. Edsforth will be around, I think.

MR. SINCLAIR: I would hope, sir, it wouldn't be necessary, when the statement is prepared, to bring Mr. Edsforth back just to answer a question on it. It may be that Mr. Frawley will be satisfied with it, so let's anticipate there will be no necessity to ask him questions.

THE ACTING CHAIRMAN: I think we will put it this way, that the Commission looks to counsel in every possible way to assist the Commission, and we hope and trust that there will be less and less of anything interlocutory and there may be more and more co-operation and much more will be accomplished -- this is not a lawsuit -- in a real effort to achieve something for this country.

MR. FRAWLEY: And I would hope that my friend keeps that in mind as one of his objectives when he is preparing it.

MR. SINCLAIR: Of course, Mr. Chairman, I will give them the facts. Mr. Sinclair is always ready to agree anything that is reasonable.







MR. FRAWLEY: Now, Mr. Edsforth, to sum up your position with regard to your petition for a recommendation that you should have federal aid, or, rather -- I must not say that -- that there should be federal aid for the export grain movement, it is based primarily on what has been disclosed by your cost study.

A. Yes, in rate making and in our consideration of a proper level of rates as measured by rate-making considerations, which I think have been fully stated.

Q. That is right; it is because the export grain rates are, as a result of the advice you have, running below, running only half of full cost and not quite that much below our variable cost, but because they are running well below cost you feel that that situation -- now the time has come to put that situation right.

A. Well, I have felt that for some time, Mr. Frawley.

Q. For a long time you felt that the rates and not just increases and new tariffs be published.

A. Well, that was our original submission to the Royal Commission.

Q. And it continued on between the Royal Commissions?

A. We have held the view that the rate should be increased, yes.

Q. I would like to pursue that with you





a little bit. The net result of what you are putting to the Commission is that you think the grain rates should now be put up to the level of full cost.

A. Yes, of full cost, Mr. Frawley -- a remunerative rate.

Q. Now, on the question of making rates according to cost you, of course, know a gentleman very well by the name of Leonard J. Knowles?

A. Yes, I know Mr. Commissioner Knowles.

Q. He is a Commissioner of the Board of Transport Commissioners?

A. Yes.

Q. For many years he was a freight traffic manager of the Canadian National Railway?

A. That is right.

Q. He lived in the world of freight rates for many years?

A. Yes, that is so.

Q. And you would agree with me that there are no more knowledgable people in Canada on freight rates?

A. He is an extremely knowledgable gentleman, yes.

Q. I want to draw your attention to what he said on the 17th of June, 1959, before a Senate Committee which was discussing Bill No. C-38, which was an Act to make provision for the reduction of certain class and commodity rates on freight traffic. That was the \$20-million subsidy bill?

A. Yes.





Q. And may I just read for the information of the Commission and your own information, what Mr. Kerr, the Chief Commissioner said before Mr. Knowles made an appearance.

THE ACTING CHAIRMAN: I think, Mr. Frawley, after you read it you should give it to Mr. Edsforth to read, too, before he comments.

MR. FRAWLEY: I am very embarrassed, I have only one copy, and I don't know whether the Canadian Pacific or the Canadian National have copies. It is page 7 of the volume for Wednesday, June 17, 1959.

MR. SINCLAIR: We haven't got one, Mr. Chairman. That was one we were not interested in. It was the shippers and the Government.

MR. FRAWLEY: What I want to do is -- I would be very glad to have Mr. Edsforth read it with me -- I will read it and hand it to him for his consideration.

Q. Mr. Kerr said at page 7, when the Chairman called upon him:

"Although I have been chief commissioner for only a few months, I would be the first to say that does not qualify me as an expert on freight rates. Mr. Commissioner Knowles has been with freight rates for 50 years, and has appeared here in previous sessions. He rose to the top of the Canadian National Railways in







"freight rates, and then was advisor to the Royal Commission on Transportation, of which the Honourable Mr. Turgeon was chairman. For the past few years Mr. Knowles has been a commissioner of our board, and certainly is more qualified than I am to answer questions with respect to freight rates."

It is quite unnecessary to state that to you for the purpose of qualifying Mr. Knowles. He is qualified, in any event isn't he?

A. In my mind, yes.

Q. Now, at page 13 there was a discussion between Mr. Knowles and Senator Smith of Queens-Shelburne on the question of why the railways charge more to haul semi-finished steel than to haul raw steel and after some discussion with regard to the fact that you must take into account the loading characteristics and putting that to one side, Mr. Knowles then said this at page 14 -- and this is what I will give you to read --

"But, Senator Smith, you have asked a great fundamental question in ratemaking that is worrying everybody today, and that is, the way the rate structure is made now, high rates are charged on high-grade materials and low rates on low-grade materials, and the higher rates are being eroded by the trucks and railways are





"being left with the low-grade articles which are moved at a rate less than the average cost of transportation. That is the great problem all over the world today, I read it in all the railway magazines -- that is, the fact that the original method of ratemaking on a value basis, while it was very good for 75 years, is out of date today, and it may be that the railways will have to come to a more cost basis of fixing rates. But as long as the value of the service principle remains in the rate structure, you are going to have that situation existing. It is quite difficult to understand for anybody who has to use the rates, to charge 50 cents per 100 pounds on one article and \$1.50 on another when the cost of moving the car is exactly the same."

A. Yes, Mr. Frawley, you have a question.

Q. Those are practical and sensible views with which you agree, Mr. Edsforth?

MR. SINCLAIR: Let's ask the question: Do you agree with the views? Instead of the comment before the question, if I may.

MR. FRAWLEY: If you don't mind I will ask the questions as they occur to me. I thought I heard someone say a moment ago something about co-operation, but that language is as far removed





from you as the Russian language.

MR. SINCLAIR: I don't want to disagree with my friend, but I was talking to the Commission. I think if he wants to ask a question, he should put it to the witness. That is the point I wish to make, Mr. Chairman.

THE CHAIRMAN: Carry on, Mr. Frawley.

MR. FRAWLEY: Q. Those are practical and sensible conclusions that Mr. Knowles has reached there as he expressed them to Senator Smith?

A. He is describing a condition, a condition of rate-making, and certainly the value of service principle has entered into rate-making for many years. Now, all that Mr. Knowles is saying here, as I interpret him, is that there has been some erosion in the higher rate of traffic, and that is true, and so you have had added another factor into value of service ceiling, and that is what competition will permit.







Q. Is it not so that the value of services principle is more unreliable, more suspected now than it was seventy-five years ago when the freight structure was first initiated?

A. I do not know that it was ever suspect. It has been a basis of freight rate making pretty well universally recognized.

Q. You are now yourself seeking to put the export grain rates on a full cost basis?

A. On a compensatory basis, Mr. Frawley.

Q. On a full cost basis?

A. Which means they contribute their variable costs plus their proportion of constant costs or their total costs, yes.

Q. As a matter of fact, you could have asked for the Crow rates, the new Crow rates, the one you want to be paid on as being a rate which would return out-of-pocket costs plus some contribution to overhead? You could have asked for that?

A. Yes, but it would not be justified because it is basic traffic to the plant and you should not carry that ---

Q. Those are ---

MR. SINCLAIR: Let the witness finish.

MR. FRAWLEY: I thought he was finished.

MR. SINCLAIR: No, he was not.

MR. FRAWLEY: Q. All right.

A. You cannot price traffic that is basic to the plant at anything less than its total cost because it is basic to the plant. The plant is there





being maintained to carry it and if it does not carry that then you just cannot get along. That is my definition of compensatory as far as grain is concerned.

Q. I put it to you, and I understood that was your whole case in pages and pages of material filed, that you want to have the grain rates in western Canada set at full cost?

A. Yes, compensatory level.

Q. All right, at full cost. Now, you could have, you say you would not have been right if you had, but you could have asked to have the grain rates fixed at a place which was returning variable costs plus some contribution to overhead but not all?

A. You could have, but that would not have been right.

Q. And you have done that in many, many cases throughout the freight rates structure, you have put rates at a place where they cover bare out-of-pocket expenses plus some contribution to overhead?

A. Well, of course, the definition of a compensatory rate, Mr. Frawley, is not altogether easy to define because you cannot get one that will fit all cases. It depends on the nature of the traffic. But, when you are looking at the compensatory nature of the basic traffic like grain then you have to look at full cost. Other traffic can be incremental and I say you look at it from the standpoint of its variable cost plus the contribution it can make.

Q. I put it to you that there are large





segments of the freight rate structure where you have fixed rates at bare out-of-pocket expenses plus some contribution to overhead. Is that so? Is that not a true statement?

A. Large segments?

Q. Yes.

A. I do not know. I would like to have them drawn to my attention.

Q. Well, I will withdraw the word "large" and say, are there not segments of the freight rate structure where you have fixed the rate either by way of agreed charges or competitive rates or otherwise, where you have fixed the rate at the bare out-of-pocket costs plus some, but not full, contribution to overhead? Surely that is a very plain question.

A. There may be some segments which in my mind are incremental segments of the traffic in which you may do that, always provided you do not give full or variable costs on handling.

Q. I simply want an answer to my question as to whether or not there are not rates. We will get away from the word "segments" if it is troublesome, but whether or not there are rates today in the C.P. freight rate structure which are cost plus some but not full contribution to overhead?

A. There may well be on some small parts of traffic that are incremental.

Q. Mr. Edsforth, incremental or otherwise you know very well there are lots of rates like that?







A. There are some rates like that that are making a contribution over variable costs.

Q. Well, there are not any that are not making a contribution?

A. If I find them ---

Q. Let us be quite certain about that. You say there are no rates anywhere in the Canadian freight rate structure today outside of grain rates which you will make a case of today, there is nothing in the Canadian freight rate structure where the rate is less than the variable cost?

A. I cannot say that, but I do say this, that whenever we find one, and, believe me, we look for them, we take steps to correct it.

Q. Frankly, I thought that was against the law, I thought that if you had a rate that was less than the variable cost the Board of Transport Commissioners will disallow on that ground?

A. Well, the Board might do so if it came to their attention but I doubt it would come to their attention because before it moved that far it would be fixed.

Q. Putting aside these rates that return less than the variable cost, there are plenty of rates that return variable cost and just something more?

A. Something more, a contribution over variable costs.

Q. That is right, because that is your justification for establishing the rate. You say





that makes it a respectable rate or allowance which returns the variable cost and something more for overhead?

A. It makes a contribution and you can do that on traffic that is not basic to the plant.

Q. Now, then, there are agreed charges?

A. Yes.

Q. That do not return full costs?

A. That is true, and there are many that return a great deal more.

Q. And there are plenty of the class rates in the non-commodity rates that must return three or four or five times the cost?

A. I don't know how many times they return more than full cost.

Q. I have not got the book at the moment but there is a passage in the document called "Transportation" by J. C. Lessard, one of the studies of the Gordon Commission that says the ton-mile revenues run from  $\frac{1}{2}$  cent a ton-mile, and we know which one that is.

A. Yes.

MR. SINCLAIR: Which is it?

MR. FRAWLEY: Q. That is what you do about grain rates -- to 20 cents per ton-mile?

A. Well, there may be a 20 cents per ton-mile on some of the l.c.l. traffic.

Q. I do not know whether this was l.c.l. or carload but if there are any rates returning 20 cents per ton-mile they are certainly returning four or five





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or six, perhaps more times, the full cost?

A. There may be. I can think of explosives that do that, and they represent a great hazard in handling.

Q. I wonder how many times an agricultural movement moving from the international line to Calgary and Edmonton, how many times the variable cost they are paying?

A. I do not think it would be too great because they do not move in too heavy a load.

Q. Well, if we get our questions answered that we asked Mr. Sinclair then we can find these things out.

MR. SINCLAIR: I just do not understand that.

MR. FRAWLEY: Well, I will explain it to you. In the letter which I wrote ---

MR. SINCLAIR: Oh, that, I thought it was dead.

MR. FRAWLEY: Well, if it is dead there will be more than that dead.

Q. I just wondered -- you see, Mr. Edsforth, this is what is bothering me about your wish to put traffic on grain moving to export in western Canada, with the difficulties that everybody understands that commodity is subject to, to find its place in the world markets. Nevertheless, you are selecting that commodity, you selected that commodity, and say that commodity must give you your full costs. I put it to you that there are many, many rates in eastern Canada, agreed charges, that are returning bare out-







of-pocket costs plus some small contribution to overhead and a long way from full costs, because you have that kind of rate disparity?

A. I say again you have to look at what the traffic is when you are looking at the compensatory nature of it, and the grain -- I go back again, I have to go back -- grain is the basic product of that plant and has to carry its full costs. It must, or otherwise your plant is not supporting itself.

Q. You have no compunction whatever in charging western grain moving to export full cost on  $6\frac{1}{2}$  per cent return on investment -- you have no compunction and yet you have made agreed charges carrying industrial goods back and forth across eastern Canada which pay variable costs plus some slight contribution to overhead?

A. You put the word "slight" in.

Q. I say there may be plenty that are slight?

A. There may be.

Q. How much overhead is there on bars and sheets you send from Hamilton to Vancouver?

A. I think there is a fairly good contribution there.

Q. I just ask you one more question: is it right that bars and sheets from Hamilton to Vancouver give you full cost on  $6\frac{1}{2}$  per cent return on investment?

A. I do not know, Mr. Frawley, and I do not know that essentially it should, because we do





not maintain the line just to carry those commodities from Hamilton to Vancouver.

Q. Whether it is or not, my question is, I ask you whether or not the rates on bars and steel sheets from Hamilton to Vancouver return you full cost just as you want the grain rates to return?

A. I say I cannot tell you at the moment.

Q. Would you find out?

A. It makes the contribution that it can. I can find out, of course I can.

MR. SINCLAIR: Here we go again. I think counsel, when he makes a request that is under advisement of the Board should not try with the witness to get him involved in an issue while it is under advisement.

MR. FRAWLEY: My friend has my abject apologies and I will withdraw that question. With that I am finished with the witness.

MR. SINCLAIR: The question and answer struck from the record.

MR. FRAWLEY: Oh, struck ---

THE ACTING CHAIRMAN: Mr. Brazier, I understand you are next?

MR. BRAZIER: I have suggested perhaps Mr. Dickson and Mr. Wood should go on ahead of me.

THE ACTING CHAIRMAN: Then we will take a short recess and will you go on after that, Mr. Dickson?

MR. DICKSON: Yes, Mr. Chairman, I will.

---Short recess.

(Page 1760 follows)





MR. EDSFORTH: Mr. Chairman, I would like to put in in answer to a question that was asked me yesterday by Mr. Mauro.

THE ACTING CHAIRMAN: Just a moment, please. You wish to answer a question asked by Mr. Mauro?

MR. EDSFORTH: Yes, sir, if I may.

THE ACTING CHAIRMAN: Is Mr. Mauro here? This is in answer to a question of yours of yesterday, Mr. Mauro.

MR. EDSFORTH: This question appears at pages 1618 and 1619 and Volume 12 of the transcript of evidence. Mr. Mauro raised the question of the stop-off in transit privileges on agricultural implements as follows:

"Q. This morning in reply to a question from my learned friend, Mr. Cooper, concerning the movement of agricultural implements, you mentioned certain in-transit privileges and stop-off privileges had been granted.

A. Yes, stop-off and in-transit.

Q. Now can you tell me when those privileges were instituted?

A. I cannot give you the exact year, but I think it was about 1953 or 1954; I could be wrong.

Q. I am advised that in Winnipeg, Manitoba this privilege went in in the summer of 1959?

A. No, I am sure it was in before







"that.

Q. Perhaps you might check on that.

A. I will check on that, but I am certain it went in before that."

Now, this morning I had an opportunity of looking that up, and I found on checking my records that my answer was not altogether correct. Our tariff records show that provision for stop-off in transit in Western Canada on agricultural implements and parts originating in Eastern Canada became effective on June 30th, 1951, in Item 505, Original page 61-A, Canadian Pacific Railway Tariff No. W.150-H, C.T.C. No. W.4070.

A further extension of the transit privilege was made on March 2nd, 1956 in Item 506, Original page 61-B of the same tariff, providing for stop-off in transit for agricultural implements and parts for storage and re-shipment.

MR. MAURO: Thank you very much, Mr. Edsforth.

CROSS-EXAMINATION BY MR. DICKSON:

Q. Mr. Edsforth, you have studied the history of the Crow's Nest Agreement and the circumstances by which it was entered into?

A. Yes, to some extent I have, Mr. Dickson.

Q. And you have made comments on the various statements made by authors and boards and Commissions upon the entering into of this





agreement?

A. Yes, I have.

Q. I would like to read to you an excerpt from the book written by John W. Dafoe entitled "Clifford Sifton in Relation to His Times", at page 146. I will give you the book as soon as I have completed reading this quotation, and I will ask you for your comment on it. It is to be found at the bottom of the page, and reads as follows:

"In an open letter to the Press of Canada, dealing with railway questions, written by Sir Clifford Sifton in January, 1929, there appears this passage:

'I remember when as a young minister in Laurier's cabinet, Van Horne and Shaughnessy said a line into the Kootenay mining district would not be considered for fifteen years. Also I remember that within six weeks the same two gentlemen came into my office and said they had to build this line and wanted a large bonus for doing it, that the C.P.R. was on the verge of bankruptcy. We gave them this bonus against the public sentiment of two-thirds of the people of Canada. They built the line and the Kootenay mining development saved the C.P.R., and saved a good many other things in Canada.'





Would you care to comment on that?

A. Well, the only comment I have, Mr. Dickson, is that this was Sir Clifford's recollection of what took place.

Q. That is correct.

A. I cannot say anything more than that. He had his own conclusions from that, and that is all I know.

Q. You do not know of anything that confirms or denies that statement?

A. I never heard that the C.P.R. was on the verge of bankruptcy. They may have been, but I never heard it. I do not know about the statement -- I never heard the statement being made -- that we did not intend to build a line in there for 15 years, because I think in another precis of evidence it has been shown that we were in fact looking towards building the railway in there. We had spent some money on it.

Q. You had done some preliminary surveying?

A. Yes, we had spent some money on a preliminary survey, but that is Sir Clifford's recollection of it, and that is all I can say.

Q. Mr. Edsforth, would you please turn to the joint submission of the railways, Exhibit 45?

A. Yes, I have that.

Q. Would you turn to page 4, paragraph 14?

A. Yes, I have that.

Q. That paragraph starts: "The principal







effect of this statute ..." -- and by this statute I take it to mean the amendment to Section 328 of the Railway Act?

A. Section 328 as it is now; it was Section 325 at that time.

Q. That is exhibited as Appendix D to this submission?

A. Yes.

Q. The paragraph reads:

"The principal effect of this statute was to bring to an end the Crow's Nest Agreement of 1897 ..."

A. Yes.

Q. And it is your suggestion that on and after 1925 the Crow's Nest Pass Agreement was dead and buried? Is that your position?

A. It is my opinion -- my strong opinion -- that the amendment to the Railway Act of 1925 terminated the Crow's Nest Agreement of 1897 so far as its rate provisions were concerned.

Q. Which were the important provisions.

A. Well, as far as we were concerned -- as far as we are concerned today.

Q. They are the only provisions of any real significance left, are they not?

A. Well, I would not like to give you an answer on that, Mr. Dickson. I could not say.

Q. Well, I would like to read Mr. Edsforth, from the report of the Special Committee of the Senate





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Edsforth, cr.ex. 1765  
(Dickson)

on Railways.

THE ACTING CHAIRMAN: Of what year, Mr. Dickson?

MR. DICKSON: 1938, Mr. Chairman.

Q. Sir Edward Beatty -- I am sure my friends will be familiar with this quote -- Sir Edward Beatty is reported to have stated as follows:

"Sir William Van Horne made an agreement with the Government for the Crow's Nest Pass rates. A great many people criticized that because they said he only got \$3,000,000-odd in the way of subsidies for building that line, and in consideration of that he made this very drastic reduction on grain rates, and certain other commodities westbound. I have always thought Sir William Van Horne was 100 per cent right. He knew the geography of this country, he knew where our competition would come from, and he knew our only salvation in the markets overseas was low freight rates in Canada in view of our distances. I think he went into that with his eyes open and undoubtedly made a good bargain. I think he made a good one both for the country and the railways. And that must have been the influence that actuated him in that matter."

Would you comment on that please, Mr. Edsforth?





A. Well, of course, Sir Edward Beatty -- this was in 1938?

Q. That is correct.

A. You must remember the times in which he was then living, and in which he was talking.

Q. That is correct.

A. You must recall that we had been through a rather severe depression lasting some years from 1930 during which rate levels generally had gone down quite considerably, and so had the cost of railway operation, so that looking at it at that time it may not have seemed to Sir Edward that these rates were too far out of line. As able a man as Sir Edward was, and he certainly was, he could not foresee what has happened since then and the conditions we find ourselves in today. I think that is pretty well pointed up by the fact that in Western Canada in 1938 grain -- all grain, that is, and that takes in some of the domestic, too -- required 33.9 per cent of total ton miles of freight service but contributed 20.2 per cent of the total revenue.

Q. My purpose in quoting that to you, Mr. Edsforth, was to get your comment on whether you feel that statement by Sir Edward Beatty, the then President of the C.P.R., respecting the Crow Nest's Pass Agreement is consistent with your view that the agreement died in 1925, some 13 years earlier?

A. Yes, I do not see that it has any bearing on that at all.







Q. Do you think he is speaking of a "dear deceased"?

A. I would not put it that way, but he was speaking of an agreement that was made, right enough, but in spite of that the Railway Act amendment so far as rate provisions were concerned only referred to the 1897 agreement as fixing a rate level.

Q. Well, we will come to that in a moment. Mr. Mauro read to you yesterday a brief statement made by Mr. Graham, the Minister of Railways and Canals in 1925 --

A. Yes.

Q. -- and a statement by the then Prime Minister, the late Mr. Mackenzie King, indicating it was not the intention of Parliament to put an end to the agreement. Mr. Mauro did his homework, I think, very well, but there are three additional quotations to which I would like to refer you. I have them marked in an extra copy of this volume so that it will make for more easier reference.

THE ACTING CHAIRMAN: Is that the Hansard reports?

MR. DICKSON: This is the Debates of the House of Commons, Dominion of Canada, the Session of 1925, Volume V, Hansard.

Q. Would you turn, first of all, to page 4310?

A. Yes, I see it here.

Q. Do you see it marked -- the second paragraph by Mr. Graham?





A. Yes.

Q. There he is reported to have said --

THE ACTING CHAIRMAN: Is he still speaking  
as Minister of Railways?

MR. DICKSON: Yes, sir, he is speaking in  
the same debate in which the statement to which the  
Turgeon Royal Commission referred to appears.

Q. In this particular quote Mr. Graham  
is reported to have said:

"Are we to do away with the Crowsnest  
pass agreement altogether? As I pointed  
out, a great many people think we should.  
But the Crowsnest pass agreement having  
been in force, the government decided  
that, along the lines they are proceeding,  
they would give a fair chance to the  
people in every part of the Dominion and  
thus avoid injustice to those in certain  
sections."

Does that not persuade you that the intention  
was to retain the Crow's Nest Pass Agreement?

A. It certainly does not say so, Mr.  
Dickson.





Q. Turn to page 4331?

A. Yes.

Q. Again Mr. Graham. Mr. Graham was reported to have stated:

"The fact is that the Crowsnest Pass Agreement is allowed to remain" --

I will repeat that -- "The fact is that the Crowsnest Pass Agreement is allowed to remain on the statute book as regards grain and flour. The Crowsnest Pass Agreement never affected British Columbia, and there is no clause in the bill or in the amendment which has any reference to British Columbia or that will in any way affect the decision of the Board of Railway Commissioners adversely to British Columbia."

Does that convince you?

A. Well, no, that doesn't at all, because to me that simply means this, that they are reviewing the Crow's Nest rates on grain and flour in there on that level, the level in the statute.

Q. The word, Mr. Edsforth, is not "rates"; the word "rates" in the sentence I quoted to you does not appear. It is, "The fact is that the Crowsnest Pass Agreement is allowed to remain on the statute book as regards grain and flour".

A. That is right, but I think he was referring to it as a rate level only.

Q. Then, turning to page 4474, again Mr. Graham and the same debate:







"May I answer that question? If a government did not stand as the buffer, the whole Crows-nest agreement would have been wiped out at this session by an enormous majority. The government has been trying to protect my hon. friend so far as it could, and now it gets abuse for doing so."

What is your comment on that? I am asking Mr. Edsforth, Mr. Sinclair.

A. There again, to come back to my answer, that his reference to the Crow's Nest Agreement there has reference to the rate level only, and I can only add to that that what Parliament did in amending the statement certainly, in my opinion, terminated the agreement; it extended the agreement, and you can't extend it very well without the consent of both parties, surely.

Q. Let us go to the legislation itself.

It is Appendix D in the joint submission at page 51?

A. Yes, I have it here, Mr. Dickson.

Q. Will you point out to me where it says there that the Crow's Nest Pass Agreement is at an end?

A. Yes, it is subsection (6).

Q. All right, let us look at subsection (6).

A. All right. Do you wish me to read it?

Q. Yes, if you would.

A. "Notwithstanding anything in subsection (5) rates on grain and flour shall, on and from the 27th day of June, 1925, be governed by the provisions of the agreement made pursuant to Chapter 5 of the Statutes of Canada 1897, but such rates shall apply to all such traffic





moving from all points on all lines of railway west of Fort William to Fort William or Port Arthur over all lines now or hereafter constructed by any company subject to the jurisdiction of Parliament."

Q. Now, let us look at the first half of that down to the word "but"; the important words, the words that mean anything are these, I suggest, "Rates on grain and flour shall . . . be governed by the provisions of the Agreement", and then it goes on to describe the Agreement.

A. Yes, governed by the provisions of the Agreement as to their level.

Q. So, the word "provisions", I would suggest to you, doesn't add anything, so again reading it just as it appears, and I appreciate you are not a lawyer, but I just want to get your impression, "rates on grain and flour shall . . . be governed by the . . . agreement". If this was intended to terminate that agreement, would it not have said so?

A. No, I don't think it would have to say so there, Mr. Dickson.

Q Don't you think this simply confirms the agreement already made and extends it indefinitely?

A. It doesn't, it simply describes the level of rates, and the description of that level of rates are the rates on grain and flour governed by the provisions of the agreement of 1897.

Q. And you are suggesting that that means





that the agreement is dead, and this has had the effect of killing it?

A. The rate provisions of the agreement are superseded, terminated by the Railway Act.

THE ACTING CHAIRMAN: Mr. Dickson, I think the issue is pretty clearly on the record now.

MR. DICKSON: We will be arguing it in due course.

THE ACTING CHAIRMAN: Yes.

MR. DICKSON: Q. Mr. Edsforth, in putting forward your suggested solution of the railway problem, you made it clear, I think, that you don't wish any part -- or, you don't wish the western farmer to pay any increased freight rates on export grain, is that correct?

A. Under present conditions we don't feel they should be called upon to assume the extra cost.

Q. What do you mean, "under present conditions"?

A. Present economic conditions, world market conditions.

Q. You recognize that at the present time he is economically unable to bear any more burden in the movement of his grain?

A. We feel he can't pay more and compete in world markets under present conditions.

Q. And do you feel that the solution which you are proposing does not in any way change his continued right to be able to transport his grain at the Crow rates?







A. I would like to have that question again, please.

Q. Did you consider the solution which you are presenting does not endanger his position in future of being able to transport grain at Crow's Nest Pass rates?

A. Well, I can't say as to that, what will happen in the future, Mr. Dickson, but certainly our solution as it stands right now doesn't do so; what will happen in the future no one can tell.

Q. Turning now to the quote from page 285 of the Gordon Commission -- do you have a copy of that?

A. Yes, I have, thank you, Mr. Dickson.

Q. It is the latter part of the first paragraph,

"We, therefore, have concluded, although with no little reluctance that the burden imposed on the railways by the statutory rate on grain traffic could be lifted with the least distortion in the short run by a new charge on the public treasury."

A. Yes.

Q. "Over the longer term we would hope that greater flexibility could be introduced into these rates by the cost reductions which will be effected by the Seaway, by improvement in the world wheat situation and by the growth of livestock production in the Prairie Provinces." What does that last sentence mean to you?

A. Well, it simply means this; that the





Gordon Commission thought that conditions might change in the future, there might be some improvement in world conditions, the farmers might be in a better position financially, but they couldn't tell. As I say, you can't tell what is going to be in the future.

Q. So, any improvement as a result of the Seaway, any improvement in the world wheat situation, any improvement in the growth of livestock might open up this whole matter of the farmer's rates under the Crow's Nest rates?

A. I don't know that that would be so, Mr. Dickson; you would have to judge them by conditions as you find them.

Q. Is that not your understanding of this quote from the Gordon Commission Report?

A. Well, I don't know; they don't state it very clearly, in my opinion.

Q. Isn't that what you mean when you say yourself at the present time such-and-such, the Crow's Nest Pass rates to the farmer will be undisturbed, and by your use of the words "at the present time" you contemplate that any change in circumstances, that these rates will be opened to increase?

A. They will be open to review, anyway, and how that will be treated will depend on how conditions are then.

Q. And that could happen a year from now?

A. I don't know, Mr. Dickson; one can't, as I say, look too far in the future. Conditions do change.





Q. It could happen any time in the future?

A. Well, there is nothing apparent at the moment.

Q. So, the farmer's belief that he has something in these Crow's Nest Pass rates would be subject to change without notice?

A. Oh, no, oh, no.

Q. What notice will he get?

A. I don't know about that. As I say, that would be a matter for very careful examination; I am sure any change that was to be made would be well -- there would be lots of notice about it and a good deal of discussion and careful consideration, too.

Q. Now, Mr. Edsforth, just a word on the subject of branch lines, which I understand to you is a matter of -- the abandonment of branch lines -- is likely to be a matter of great concern to the farmers of western Canada?

A. Yes, to those who are located on the branch lines, I would expect so.

Q. And in his evidence the other day, Mr. Donald Gordon stated in the memorandum, Exhibit 47:

"Each branch line is being examined to ascertain if it can justify its existence."  
Is that situation holding true in the C.P.R.?

A. Yes, we are looking at branch lines, various ones.

Q. And what test do you apply to determine whether it can justify its existence?







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Eadsforth, cr-ex 1778  
(Dickson)

A. Well, actually, Mr. Dickson, I don't examine them myself. I am not the man responsible for it, so I couldn't give you ---

Q. You were a party to the decision?

A. I couldn't give you all the tests, Mr. Dickson, but the principal test, of course, is whether the branch line is paying for itself, to put it very simply.

Q. The economics of it?

A. Yes, the economics of it.

Q. You recognize the necessity of maintaining some uneconomic branch lines for reasons of public policy?

A. Public policy?

Q. Public policy.

A. Well, I think that then becomes a matter for the Board, but I don't know whether you would take it as public policy.

Q. You leave that decision to the Board?

A. Not altogether, no, but all I say is that when you go to abandon a branch line, certainly you must take it before the Board and put your circumstances before them. Now, where the public policy comes in -- I don't know how broadly you define public policy.

Q. Well, the same reason that you are carrying uneconomic passenger rates?

A. I don't think that is a matter of public policy.

Q. What is that prompted by?

A. That we have a passenger service? Well,





it is certainly not a matter of public policy because we are carrying passengers and doing our best to make that a paying proposition, we are working on it all the time.

Q. Let me put it this way; do you recognize any responsibility to the farmers when they settle in any particular area, or have purchased a farm in any particular area knowing that there is a branch line there and believing that that branch line will continue indefinitely?

A. We recognize the responsibility to see that he has transportation, Mr. Dickson. Of course, there are many of these branch lines, I would think, in the West -- we have a lot of them, as you know -- that for a just and reasonable level of rates on grain, as we proposed, it probably wouldn't be uneconomical.

Q. Would it be correct, Mr. Edsforth, to say that up to the present more branch lines serving mines or industrial districts have been closed than those serving grain growing districts?

A. Up to the present?

Q. Yes.

A. I don't know if that is so or not.

Now, on line abandonments which we have made, one or two of them have been mining areas, yes, I can think of one or two in British Columbia, and any to serve farming areas, I think we made one or two of those, too.

Q. Mr. Gordon, as I recall it in his evidence the other day, indicated that such abandonments





were usually made because the mine closed or because there has grown up an alternative and cheaper method of transportation normally by road, is that right?

A. Certainly those are two of the reasons.

Q. Were those the main reasons?

A. Not exactly; it all depends on the area you are in.

Q. Well, in the movement of grain where the grain production is on the increase due to more efficient farming methods, that consideration of abandonment because of a used mine wouldn't apply, would it?

A. You mean to say it was still developing traffic?

Q. Yes.

A. Yes, and as long as that traffic was paying its proper cost there wouldn't be that consideration.

Q. On this matter of alternative means of transportation, in any of your branch line abandonments in the prairie regions it will cost the farmer more money to move his grain to the rail position?

A. Well, again, I don't know; it is pretty hard to --- you are generalized on that, and it is pretty hard to particularize on it. It may be in some instances, but not necessarily always.

Q. When would it cost less to get it there?

A. Some times a farmer may be located midway between two branch lines; he happens to be hauling to one, he can haul to another.







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Edsforth, cr-ex 1781  
(Dickson)

Q. That wouldn't happen very frequently?

A. It does happen quite a bit, I think.

Perhaps you would know more about it than I would.

Q. I will not express an opinion on that,  
but I would suggest it is a pretty remote contingency.

A. I don't know how remote it is.

(Page 1785 follows)





Q. Now, what is your view on the matter of the branch line abandonment to be affected or altered by a federal subsidy related to branch lines?

A. Well, I don't know that a federal subsidy would be justified as related to branch lines. I don't think it is a question involving the national interest. Branch lines are in locations of their own, and I don't think it is a matter of national interest or national policy calling for a subsidy.

Q. You wouldn't want a subsidy related to branch lines?

A. I don't think there should be, no.

Q. You don't feel that these uneconomic branch lines are serving any public need?

A. They may be serving a public need in the area, but that becomes a question when the line becomes uneconomic because of lack of traffic or because of a low rate level.

Q. You would not, then, I think, contemplate altering your present view that branch line abandonment for economic reasons are the main thing prompting you in such a case?

A. From an economic point of view?

Q. Yes. You wish to look at them all on an economic basis?

A. We have to look at them on an economic basis and their possibilities for the future, what alternative possibilities there are. We don't look at it cold bloodedly.

Q. And you wouldn't seek federal subsidy





related to branch lines?

A. No, indeed.

THE ACTING CHAIRMAN: Thank you, Mr. Dickson.  
Mr. Brazier?

CROSS-EXAMINATION BY MR. BRAZIER:

Q. Mr. Edsforth, you have been taken by counsel through what I might term the political and legal history of the Crow's Nest Pass Agreement and the rates arising therefrom?

A. Yes.

Q. I wonder if I could go with you through the more practical history of it, and that is the history of the actual tariff that has been issued as a result of those agreements and what the effect of them has been over the 60 years.

A. Yes.

Q. I might first, just to orientate my questions, turn to the Crow's Nest Pass Act, Chapter 5, 60-61 Victoria, which is found commencing on page 36 of the joint submission, Exhibit 45.

A. Yes.

Q. And I am only going to concern myself with the so-called east-bound rates, and I ask you to turn to page 37 and in Section 1(e) I call your attention to the words used there --

"That there shall be a reduction in Company's present rates and tolls on grain and flour from all points on its







"main ..." --

Particularly the words "grain and flour".  
I also go to the agreement itself, which is Appendix  
"B", Exhibit 45, and at page 44, paragraph 11 of the  
agreement, the words used there:

"There shall be a reduction in the  
company's present rates and tolls on  
grain and flour from all points ..."

The same language as was used there.

A. Yes.

Q. Or was used in the Act itself. Then  
I turn finally to the present Railway Act, Section  
328, subsection 2, and the words of subsection 6  
there are:

"Notwithstanding anything in sub-  
section 5, rates on grain and flour shall ..."

The wording in that is exactly the same --  
"grain and flour"?

A. Yes, that is right.

Q. Now, would you tell me, Mr. Edsforth,  
was the first tariff published by the Canadian Pacific  
Railway in the year 1897 or 1898? I think they  
became effective on the first of January, 1898.

A. 1898. Well, there were two separate  
issues, Mr. Brazier. I think I have the tariff here.

Q. It became effective on the first of  
September, 1898, the first stage?





A. Yes, that was the first stage of the reduction. Yes, here I have it, Mr. Brazier: Canadian Pacific Railway tariffs No. 494, effective August 1st, 1898.

Q. Now, what items are covered by that tariff?

A. The commodities?

Q. Yes.

A. Grain, flour, oatmeal, millstuffs, flax seed, oil cake, potatoes and hay.

Q. And that tariff was superseded the following year by a tariff with an additional reduction?

A. Effective September 1st, 1899, C.P. Railway, 543, and that tariff applied to grain, flour, oatmeal, millstuffs.

Q. So there was a difference between your first tariff and the second tariff, the commodities affected?

A. That is right; the commodities affected excluded flax seed, oil cake, potatoes and hay.

Q. Why were they not included in the second reduction?

A. Well, Mr. Brazier, I can't tell you exactly, because that is a long while ago. I wasn't even born then. I don't think they were considered as being part of the agreement. That is all I can say.

Q. You will recall, and I am sure the Chairman of the Commission will, the case in regard to flax seed.

A. Yes.





Q. I think the opinion was expressed at that time that the company came to the conclusion that flax seed and the other items you have mentioned were not grain?

A. Yes.

Q. And therefore they were not included in the second reduction?

A. That is right.

THE ACTING CHAIRMAN: The contention was that flax was a grass.

MR. BRAZIER: Was a seed under the earlier tariff.

Q. I wonder if you would repeat the items in that tariff of 1899?

A. Grain, flour, oatmeal, millstuffs.

Q. I wonder if you would read the present tariff.

A. That is Canadian Pacific Railway W-819A, C.P.C. No. 4035.

Q. That is from Fort William to the lake-head?

A. Yes, that covers domestic rates -- it covers the terminal rates, the Crow rates to Fort William as well as the domestic rates.

Q. Would you tell me in that tariff what commodities are included?

A. Well, there are quite a number. We have rates on grain and grain products. It includes flour and many other items which I presume would be under the term "millstuffs" in the original tariff.







Q. How many items are involved there?

A. I will have to count them. It is a little bit difficult there, Mr. Brazier, because you have got several different kinds of grain, like barley, buckwheat, corn, oats and so on. If you term them all under the general term "grain".

Q. Give me the total commodities which we wouldn't directly call grain.

A. Grain products?

Q. Yes.

A. There are 37 of the products on which the grain rates apply, plus some flax seed products.

Q. Included in that -- I don't think I have a complete list here, but, for instance, there are breakfast foods and cereals, are there not, uncooked in bags?

A. Yes, uncooked. That would be your rolled oatmeal in your original tariff.

Q. Surely you wouldn't call some of our modern breakfast foods like "Pep" and other products --

THE ACTING CHAIRMAN: Oatmeal would be in a different position to Rice Krispies.

MR. BRAZIER: Q. Now, all those sort of products are included today.

A. The uncooked ones, not the cooked ones.

Q. Uncooked?

A. Yes. That would take in Corn Flakes, or anything like that.





Q. If I am not mistaken you also have an item in there of beet sugar?

A. Beet pulp, that is correct.

Q. Is that related to grain in any sense of the word?

A. Well, it is used for the same purpose, many of the same purposes as your mill stuff such as shortening -- it is used as an animal feed.

Q. Is it correct to say that over the years the railway or the railways have included under this tariff a number of commodities that are used for the same purposes as grain and grain products?

A. Yes, some -- a few, I would say. I think most of the commodities that are included in this item would come under the general term of mill stuff. That is a pretty broad description.

Q. I would just point out to you that it is not a term that is used in the statute, in any event.

A. No, it says "grain and flour", that is true.

Q. And there are a great many products that would not come under the heading of grain and flour?

A. Yes, there are commodities that would not be considered as grain or flour -- a few of them.

Q. And I presume the railways have put in these additional items over the years maybe under pressure from shippers but otherwise on a voluntary basis?





Edsforth, cr-ex 1796  
(Brazier)

A. Well, I don't know -- I do not know that there would be any great pressure. There may have been application from shippers.

Q. And you thought it proper to add them to the list?

A. Well, of course, quite a situation developed here, the products of the milling of grain, a lot of by-products that go into competition one with the other, and they in turn in competition with other feeding ingredients.

Q. I am not criticizing the railway at all and I do not want to give you that opinion, I just want to get to the fact that there is now under this tariff a great many items that could not be considered under the description of grain and flour?

A. There are quite a few, yes.

Q. Could you give us any idea of what percentage of your traffic is other than grain and flour under that tariff?

A. You mean moving within western Canada under these rates?

Q. Yes.

A. It would be a very small percentage, Mr. Brazier, very small indeed.

Q. What do you mean by "very small"?

A. It certainly would not be, I would not think, in the order of 5 per cent or even that much. I think it would be much less than that.

Q. Even including your screenings and things such as that?







A. Yes, even with the screenings there is not that much of a movement.

Q. Now, do you agree, speaking fundamentally, the purpose of the Crow rates was to assist the grain growing area of Canada to market their products in the world markets in competition with other countries that had a shorter transportation problem in order to reach that market?

A. You mean that was the intention of Parliament?

Q. Yes.

A. In instituting that?

Q. Yes.

A. No doubt that is what they had in mind.

Q. And we still speak of them as export rates?

A. Yes, we call them rates on grain moving to export positions.

Q. That term has been used many times here?

A. Yes, that is true.

Q. Now, taking the situation at Fort William, what percentage of the grain which you carry on that tariff is actually exported from Canada?

A. Of the grain that moves to Fort William?

Q. Yes. Let me put it this way: I might put it a little broader so we understand it -- of the commodities that travel under that tariff, that





are carried under that tariff, can you give me any rough idea of how much is exported from Canada?

A. No, I cannot when you put it in that one direction. I can check it out, but right at the moment I cannot tell you. I know that a great volume of it is certainly the bulk grain, a large proportion of that moves offshore export and a good deal of the flour too. The other commodities, no, not so much.

Q. Would you be able to get figures for us that would indicate the difference between the receipts at Fort William and the export figures for Canada?

MR. SINCLAIR: We will try.

THE WITNESS: The export figures of Canada versus the export at Fort William?

MR. BRAZIER: Q. Well, I mean eastern Canada?

A. Yes, we can try and see what we can do.

Q. Now, there is no doubt about it, I suggest, that a fair percentage, a certain percentage of the grain goes into domestic consumption in eastern Canada?

A. It does.

Q. And to that extent the users, the domestic users of grain and grain products in eastern Canada are being subsidized?

A. Well, you mean they are paying less for their grain as far as Fort William?

Q. Yes, if they paid a normal rate on





their domestic grain at Fort William their grain would be costing them more in Ontario and Quebec?

A. I don't know if that is the case. It all depends on who pays the freight charges. I always understood the freight rate that the farmer gets is a Fort William price less freight.

Q. To?

A. To Fort William.

Q. That is probably based on the present system?

A. Well, I don't know, but in that event it would not seem to me that the eastern man is benefiting from it -- I don't know.

Q. Well, let us look at what the situation is on the Pacific coast. Now, there your rates are truly export rates, are they not?

A. Yes, and so described.

Q. And if I bring a carload of flour from Calgary or Moose Jaw to Vancouver I would pay the full domestic rate?

A. You would.

Q. For that?

A. Yes.

Q. Would there be any difference in the cost of handling that shipment to Vancouver because of the fact that it is going into domestic consumption rather than export?

A. No, I do not think so.

Q. But the rate is substantially different?

A. There is quite a difference, yes.







Q. And I suggest to you today that the domestic rate from Calgary to Vancouver, if I remember my rate, is 64 cents at the present time?

A. That sounds about right.

Q. And the same carload of grain, if it is going to Vancouver for export purposes, pays 20 cents?

A. From Calgary?

Q. Yes.

A. Yes, because that is the export rate that has been held down by statute and has not been allowed to take any rate increases.

THE ACTING CHAIRMAN: Perhaps we might have a short recess.

---Short recess.

THE ACTING CHAIRMAN: All right, gentlemen, shall we continue? I think that after Mr. Brazier is finished with the witness we will adjourn for the day. In the meantime, for the sake of the reporters, if anybody is quoting from any book or pamphlet, would they please hand them up to the reporters so they will get it properly in the record.

Yes, Mr. Brazier?

MR. BRAZIER: Q. Mr. Edsforth, during the recess I was advised that the domestic rate to Vancouver from Calgary today is 70 cents.

A. Yes.

Q. And not 60 cents. I was speaking of before the last increase.

A. The time you and I were on the last





case, perhaps.

Q. We have that situation existing on the Pacific coast then that a carload of flour from Calgary to Vancouver, if it is to be exported to Japan or China or India, pays 20 cents per 100 pounds?

A. Yes.

Q. And if it is to be delivered to my grocer from whom I buy my flour, he pays 70 cents a 100 pounds?

A. Yes. It just shows the disparity between those rates and the rates that would normally apply.

Q. Now, the export tariff to Vancouver, have you that there?

A. The export tariff?

MR. SINCLAIR: You know it is 20 cents.

THE WITNESS: If it is a list of the commodities.

MR. BRAZIER: Q. Yes, I believe there is quite a difference in the list of commodities.

A. Apparently I have not got it here.

Q. Maybe we can settle it in this way: would you agree there are a number of items in the tariff to Fort William that are not included in the tariff to Vancouver?

A. Yes, there are. I cannot specify exactly what they are.

Q. Would it be correct to say that is so probably because those particular commodities are not exported from Canada?





A. I would think that is probably the prime reason, yes.

Q. Now, I want to put it to you once again in view of the situation that exists on the Pacific coast as against Fort William, and, revenue aside, the question of the method under which grain is priced in Canada but looking at it strictly from a transportation point of view, I would suggest to you that the producer, the domestic producer of grain at Fort William and points east thereof does receive a distinct benefit in the rate as against the domestic consumer on the Pacific coast.

A. Well, again I say, Mr. Brazier, it all depends on who pays the freight rate. That is the thing, whether the purchaser pays it or whether it is paid by the producer.







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Edsforth, cr.ex. 1806  
(Brazier)

Q. Now, if I purchase grain for myself living in Ontario or Winnipeg or, let us say, Regina, and ship that to my warehouse in Toronto, or some place such as that, I would suggest that I would receive a much lower rate for the part of the haul to Fort William than would a similar purchaser buying the grain in Vancouver?

A. Is this grain or flour that you are speaking of?

Q. Grain.

A. Well, I do not know. Certainly the transportation charge would be different. With regard to the question of who pays I do not know.

Q. That is what I thought you would agree with, that the transportation charge would be lower coming east than it is going west?

A. Lower to Fort William. Of course, you must remember there are transportation charges beyond Fort William.

Q. But in going past Fort William you are also carrying the grain a greater distance?

A. Yes, that is so, but you are talking of the total quantum of the charges.

Q. Yes, but I put this to you that so far as a mileage basis is concerned, the dividing point between Fort William and Vancouver is somewhere close to the Alberta-Saskatchewan border?

A. Yes, it is just about the middle part of Saskatchewan, actually, I think -- Maple Creek, or around there.





Q. Maple Creek, Saskatchewan?

A. Yes, I think around Maple Creek.

Q. So, to be accurate and to compare equal mileages of grain would you take Maple Creek to Vancouver as against Maple Creek to Fort William?

A. From the rate standpoint, yes.

Q. And also from the standpoint of the amount of transportation work that the railway would do in transporting it?

A. It would be approximately the same.

Q. Now, one other point, so that it may be on the record, is that the railway export tariffs do not include export to the United States of America.

A. No, it is off-shore exports.

Q. So we cannot bring grain to Vancouver and export it to Seattle, and get the export rate?

A. No, you cannot.

Q. I think you have to go as far as Mexico before you get the rate?

A. Yes, I think you would have to. I think in the tariff, Mr. Brazier, it takes you to a certain meridian of longitude; I think that is the way the tariff expresses it.

Q. So far as the railway tariff is concerned the United States of America is not a foreign country?

A. Well, we do not consider traffic to the United States as export traffic. No, export traffic in railway parlance is off-shore business going to foreign countries.





Q. Yes. The railways also have tariffs for grain from Montreal to Saint John?

A. Saint John, New Brunswick?

Q. Yes.

A. Yes, there are.

Q. And as I recall those are really competitive with the American rates from Buffalo to New York and Baltimore?

A. Yes, historically they have been related, that is right.

Q. In a comparison to the Crow rates what is the level of those rates?

A. From Montreal to Saint John?

Q. Yes.

A. Well, I think they are somewhat higher mile for mile, Mr. Brazier. They are slightly higher mile for mile. I have not got the exact figure, but I can get it for you.

Q. Those rates are maintained, are they not, for national reasons? They are not statutory?

A. They are not statutory, no. They are maintained to get traffic to and from the port.

Q. Canadian ports?

A. You have to have grain at the ports to induce steamships to call, and we want to handle the import business through there.

Q. And the Government of Canada wants Canadian grain to be shipped through Canadian ports where it is possible?

A. I would expect it. I imagine that







would be their preference.

Q. Were there any discussions with the Government of the day when these rates were put into effect originally?

A. I do not think there would be, Mr. Brazier. I do not recall any.

Q. Mr. Sinclair suggests that you would have the rates there from the bay ports to Montreal, to Three Rivers, and to Saint John?

A. Yes, I have those.

Q. I wonder if you might give them to us so that we might have the whole grain picture before the Commission?

A. Yes. From Port McNicol to Montreal the rate is 23.92 cents.

Q. I wonder if you could give us the mileage?

A. 449 miles; it is 449 miles from Port McNicol to Montreal.

Q. And the ton mile revenue is what?

A. After taking care of some elevator absorptions it is .88 cents per ton mile.

Q. And to Three Rivers?

A. The rate there is 23.92 cents, the same as to Montreal, for a distance of 533 miles.

Q. And the ton mile revenue is what?

A. That is .77 cents.

Q. And to Saint John?

A. 24.75 cents for a distance of 519 miles, and the ton mile revenue there is .50 cents.





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Edsforth, cr.ex. 1810  
(Brazier)

Q. So on that the rate is comparable on a ton mile basis to the statutory rates on the Prairies?

A. From Port McNicol to West Saint John -- yes, comparable on a ton mile basis; that is so. Of course, those rates, Mr. Brazier, do not remain stationary. They increase from time to time as the rates related to American ports move.

Q. Yes. You might tell us what increases have taken place over the years?

A. Well, they have just about doubled in the last 10 years, I would say. I think I have the figures here.

Q. They were extremely low 10 years ago?

A. Yes, they were, indeed. Well, the rate on wheat was 12.17 cents in July, 1946 as against 24.75 cents today. It has gone up approximately 100 per cent, or a little more than 100 per cent.

Q. And they have gone up with the increases in the American rates?

A. They have gone up with the increases in the American rates.

Q. But those rates are all an integral part of the grain export transportation picture in Eastern Canada?

A. Well, they are part of the transportation picture on export grain, that is right, Mr. Brazier, and I would think that we would be reviewing them very shortly again to see what change we can make in them.





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Edsforth, cr.ex. 1811  
(Brazier)

Q. Would it be correct to say on the basis of the ton mile revenue figure which you have just given to me that none of those movements pay their full cost?

A. Well, I think the Montreal one does, and the Three Rivers one, too. Quebec does not, I do not think, and the West Saint John rate I do not think pays its full cost. That is why I say we are looking at them to see what we can do about them.

(Page 1813 follows)







Q. On the basis of the cost of one cent a ton-mile, which you are asking for the statutory rates, they are all below that figure?

A. Yes, they are all below that, that is so.

Q. Now, Mr. Edsforth, are you of the opinion that the fact that grain rates in western Canada are statutory, that that has been a burden to other shippers on Canadian railways during the last ten years?

A. Sometimes it has been, Mr. Brazier, but I would think in the more recent years it has been a burden upon the railways to a greater extent.

Q. Your position is somewhat different to what it was a few years ago?

A. Our position is a good deal different in many respects, Mr. Brazier.

Q. I take it from your answer that the C.P.R. Company has no intention, if it is granted a subsidy, of using that subsidy to grant relief to other shippers?

A. Well, Mr. Brazier, if this is the position I think, the subsidy which we are suggesting should be paid to the western grain shippers, in order that a fair and reasonable level of grain rates may be paid to the railways, has relation to the total cost of handling that traffic.

Now, the general level of all rates in Canada, all freight rates as a body, has relation to the revenue requirements of Canadian Pacific as may be determined by the Board, and so the level of





those rates has to be determined in relation to how the Canadian Pacific requirements may be before you can say what change should be made in the general rate level.

Q. I take it, Mr. Edsforth, we are in this rather difficult position, that since that determination was last made by the Board the situation has changed and your requirements of revenue have increased again?

A. Well, they have increased slightly, Mr. Brazier, but I don't know how much.

Q. Oh, slightly?

A. I don't know how much.

Q. In the last year?

A. I couldn't say.

Q. The shippers are glad to hear that.

A. I don't know how much they have changed.

Q. Is it not true, Mr. Edsforth, that if at the time of the various applications made by the Railway Association since 1950 you have been able to increase the grain rates by the same percentage as applied to other traffic, the percentage increases which would have been granted to you would have been lower than it actually was?

A. Yes, that is a fact, Mr. Brazier, but, of course, you have to go beyond that because we have not been able to retain percentage increases on all of that traffic, and on quite a lot of it we haven't.

Q. That was an event subsequent to the hearing, wasn't it?

A. Well, of course, it was, but it was recognized at the hearing that that was probably so





to some extent.

Q. I suggest to you at the hearing, at the time of the hearing, the Board considered it was giving to you an increase which would yield to you the additional revenue that they felt you needed?

A. At the last hearing I am not quite certain about that because I think we were then going on a wage increase; I don't think that was related to Canadian Pacific requirements.

Q. I think the Board's judgment was now, Mr. Edsforth?

A. No, I don't think so.

Q. The application was made on the basis -- as I recall it -- of the C.N. requirements, and the Board granted it on the basis of the C.P. requirements; is that correct?

MR. SINCLAIR: No, what was done was that the application was made on the basis of requirement of C.N. labour cost, and the Board gave an increase to requite C.P. labour cost rather than C.N., and deferred the other part of the application which, under the existing situation, can't be heard.

THE ACTING CHAIRMAN: Canadian Pacific Railway is the yardstick for growth?

MR. SINCLAIR: Yes.

MR. BRAZIER: Q. Can you give me any indication of what the percentage increase would have been had you been able to increase the statutory rates on the various increases that occurred since 1950, what the percentage would have been?







A. Well, that is quite an involved calculation, Mr. Brazier. I would think around -- it may have been 115, 112 per cent, I don't know; it would be in that range, I think.

Q. Rather than ---

A. 157.

Q. Instead of 157?

A. Yes.

Q. For my purposes that is close enough.

So, to that extent the difference between 112 and 157 per cent increase, I suggest to you, that may have been a burden on other shippers?

A. To the extent that these increases have all been paid by other shippers, yes; that hasn't been the case in many instances.

Q. We have got into a round-robin that is very difficult to resolve?

A. It is.

Q. And I suggest to you that we have to look at these things at the time the Board is making its decision?

A. Well, I think we have to look at the results, too, don't we?

Q. The next time you come for your increase you have to look, and you make your estimates and generally speaking they are accepted by the Board, what additional revenue they will give you?

A. Generally speaking they are.

Q. As I recall, you have been reasonably accurate, too, in your own personal estimates as to





what revenue you will get?

A. Sometimes not as accurate as I could have wished, Mr. Brazier.

Q. Now, following this, if I might just turn to page 252 of the Turgeon Report, it seems to be a well marked page now, and I will just read this sentence to you. It is in the second last paragraph.

"In any case the statement made by the Canadian Pacific Railway Company is to the effect that 'since 1922 the greater burden of the Crowsnest Pass rates deficiency is borne by other shippers.'"

A. Yes.

Q. And I suggest to you that that is just as true today as it was in 1950 when it was made?

A. No, I don't agree; there is quite a substantial difference. It is not being borne by other shippers in large measure; it is being borne by the railways.

Q. That is your considered opinion?

A. That is, indeed.

Q. Now, I have another little bit here; I have here a reprint from the Canadian Journal of Agricultural Economics entitled "Economics in the Crowsnest Pass Rates" written by George W. Wilson, who, I believe, is a lecturer and professor at the Indiana University. Do you know Mr. Wilson?

A. No, I don't.

Q. Have you ever seen this pamphlet?

A. No, I haven't. At least, I don't





recall it, Mr. Brazier.

Q. Might I just read a brief paragraph in here, which is on page 7, and I will hand it to you in a minute:

"Rate increases since World War II have taken cognizance of the revenue needs of the railways which, of course, include labour costs and the existence of fixed statutory rates on grain traffic. Thus greater increases were granted because of the existence of the Crowsnest Pass rates than would have been the case if all traffic were subject to general freight increases."

You will agree with that?

A. I agree with that.

(Page 1821 follows)







Q. "This was one of the arguments advanced by the C.P.R. in 1951 and which the Commission tacitly accepted by stating that 'If the Crowsnest Pass rates were made subject to general increase the ratio of the increases would go down'. It is clear, therefore, that whatever the burden of these statutory rates to the railways, they have been counterbalanced to a large extent by general rate increases higher than would otherwise have been granted. If this is the case then it does not follow that the Crowsnest Pass rates have adversely affected the railways' ability to pay."

Now, I would like you to read that.

A. Well, I do not agree -- I agree and I disagree, both. I agree that certainly higher rate increases have been granted because of the exemption of the statutory rates; there is no question about that.

Q. And to that extent I put it to you that it must be a burden on the other shippers.

A. On perhaps some shippers, but not on all shippers, because we have not been able to obtain all the revenues that those increases would grant us. To further illustrate that, we have never, in the last 10 years, come up to the requirements of revenue which the Board said we should have.





Edsforth, cr.ex. 1822  
(Brazier)

Q. I appreciate that fact, Mr. Edsforth. I put this to you, that on those rates on which you have taken the full increase granted to you by the Board, in the case of those rates the Crow's Nest rates have been a burden on those shippers.

A. To the extent that the rates have borne all of the increases, Mr. Brazier?

Q. Yes.

A. Yes, I would say so. There is a question as to how far that goes, how many of them have.

Q. Mr. Edsforth, in your testimony you have referred to the grain traffic of Western Canada as being basic to the plant?

A. Yes.

Q. And you are referring to the railway plant of the C.P.R.

A. That is right.

Q. In Western Canada?

A. In Western Canada.

Q. I wonder if you could define what you mean by that term "basic to the plant", how you determine it.

A. Well, it is the traffic for which the plant is primarily maintained; that new branch lines are built and maintained for the purpose of handling grain primarily. It is true they handle some other traffic, but basically grain is the movement, the reason for being, as it were.

Q. Of course, the basic reason that the





C.P.R. was built was to provide a rail link between the Pacific coast and the rest of Canada at the time British Columbia became a part of the rest of the Dominion.

A. Yes; Western Canada is more than the main line a good deal.

Q. Is the grain crop basic to your main line? When you are speaking of plant, are you just speaking of the gathering system?

A. The gathering system and to the extent that the main line must be maintained, the people looking after the various trains, the staff you must have -- all of that is required largely by grain.

Q. Would it be correct to say whether or not traffic is basic to the plant depends on the volume of traffic?

A. It depends on its importance in relation to the line that is there, and that, of course, has a great deal to do with the volume.

Q. Tell me, would you, for instance, consider lumber basic to your railway plant in Western Canada?

A. It may be basic to some parts of it, Mr. Brazier; yes, it could be.

Q. Not to all of Western Canada?

A. Not to all of Western Canada, no.

Q. In volume how does the lumber traffic compare with the grain traffic?

A. In terms of ton miles?

Q. Yes, ton miles and revenue.







A. Well, I can get that for you. For the year 1958, Mr. Brazier, we grouped lumber, timber and plywood together.

Q. It doesn't include pulp and paper?

A. Oh, no. Also we grouped the Prairie and the Pacific regions together; that is, it takes in all of Western Canada. In 1958 the total revenue attributed to the Prairie and Pacific regions was \$31,796,000, and the total of the grain, the same territory, was \$37,157,000.

Q. Revenuwewise it is approaching the grain rate?

A. Yes, but when you come down to ton miles you see quite a difference. The lumber, timber and plywood required 2,601,000,000 ton miles, and grain 6,864,000,000 ton miles.

Q. If you add in the other forest products, namely, pulp and paper, what would it be?

A. We do not include pulp and paper as a forest product; it is considered a manufactured product.

Q. Have you those figures?

A. Pulp and paper, did you wish?

Q. Yes, for the same region.

A. Well, woodpulp in 1958, same regions, revenue, \$1,754,000; ton miles, 1,091<sup>191</sup> millions-odd. Newsprint paper, revenue, \$1,741,405; ton miles, 134 million-odd.

Q. Now, has the C.P.R. ever done a cost study on lumber in Western Canada?





Edsforth, cr-ex 1824A  
(Brazier)

A. You mean an overall cost study? Not to my knowledge, Mr. Brazier.

Q. Have they done any on specific movements?

A. We have done the odd one on specific movements. I do not know what they are.

Q. Those that have been done, could they be made available for inspection?

MR. SINCLAIR: No, Mr. Chairman. Unless we are directed by the Commission to do so, I don't know why -- I may say that it isn't that we don't want to assist my friend Mr. Brazier and the lumber industry, but we are in business and I just think that it is going a little too far to ask us to disclose our costs to the people, in extenso, that we are trying to sell our product to, point by point; and also there can be in lumber certain competitive factors in various types of movements, and this is the reason.

MR. BRAZIER: It does seem to me we are going to get into a very strange position if the C.P.R. succeeded here in having 25 per cent of their traffic carried on a cost basis and all the rest of it working in the dark. I am going to ask the Commission for that.

MR. SINCLAIR: I would like to say that, as Mr. Edsforth has said, an overall cost study on lumber has not been done. He thinks, he is not sure, that there may have been some done on specific





movements. On those specific movements they would have been made for specific reasons, either competitive or costwise or because they were marginal in the opinion of somebody in Canadian Pacific, not Mr. Edsforth, and for that reason there are very special reasons why they are done. I may say, and I repeat this again, that when we were asked for cost studies at other times and other places we were never required to produce them, and the reason that they were not produced was that it was private commercial information.

THE ACTING CHAIRMAN: Well, that will come up later, I suppose.

MR. BRAZIER: Q. If you can't answer this, just say so, but in your opinion could the cost study that has been supplied to us in respect to statutory grain be applied to lumber?

MR. SINCLAIR: Once again, Mr. Chairman, until directed by the Commission, I say that this is ground -- I am not trying to be difficult with my friend -- this is ground where we will not, unless directed by the Commission, produce those figures.







MR. BRAZIER: I am not asking you to produce any figures at all, I am asking the witness whether or not you could take the grain cost study and apply it to the movement of lumber and we would do the costing ourselves. Could we follow the same principles that are followed in the grain study and apply it to lumber?

THE ACTING CHAIRMAN: I think perhaps we had better see what the grain study is first and then you can argue from that whether you wish to apply it to lumber.

MR. BRAZIER: I would not want to bring Mr. Edsforth back for this and I thought he might be the man who could say that it could be applied to any commodity or it could not.

MR. SINCLAIR: He is not the man to say that.

THE ACTING CHAIRMAN: Well, I think Mr. Edsforth will be around from time to time anyway; we always see him and we are always glad to see him.

MR. BRAZIER: Q. Now, Mr. Edsforth, just one or two small questions remaining.

On page 24 of your precis of evidence, the last sentence on page 24 reads:

"In addition, the railways have found it necessary to allow some traffic to be lost to other forms of transportation in order to maintain the increased level of rates on the remainder thus reducing the effective yield of the rate increase."





I wonder if you would just explain what you mean by that sentence?

A. Well, what I mean by that is that with the increased level of rates it is sometimes found that a part of that traffic is being handled by some other means of transportation and it then becomes a question of decision as to whether you should reduce the rate for that part you are losing in order to retain all of it or whether it is better to keep your level of rates up and forego a small part.

Q. Is that then the sort of situation that was suggested when the 1 1/3 rule was put in?

A. Very much that, yes.

Q. It may pay the railways not to take the traffic to Vancouver rather than grant the rate reduction to the Province of Alberta?

A. We felt we had to let some of the British Columbia traffic go.

Q. Now, reference has been made to deficits on other traffic than grain and it seems to be implied by the statements made both, I think, by yourself and Mr. Sinclair, that there is a passenger deficit so far as the C.P.R. is concerned. Is that correct?

MR. SINCLAIR: We will admit that.

MR. BRAZIER: Q. Would you tell me in round figures what that was in the year 1958?

MR. SINCLAIR: Mr. Chairman, we are now again on forbidden ground awaiting the decision of the Commission.

THE ACTING CHAIRMAN: Yes, that is one of





the questions.

MR. BRAZIER: I am just asking for the round figure; I am not asking how it is made up, or anything.

MR. SINCLAIR: Round, square or vertical it is still the same question.

MR. BRAZIER: I am quite sure Mr. Edsforth has the figure in his own book.

MR. SINCLAIR: Whether he has got it or not I still say, Mr. Chairman, that this is a question that is awaiting decision.

MR. FRAWLEY: This is just an investigation of the Crow's Nest Pass freight rates as far as you are concerned.

MR. SINCLAIR: I hear a quiet voice for the first time today.

THE ACTING CHAIRMAN: Not so quiet.

MR. SINCLAIR: That is my submission.

THE ACTING CHAIRMAN: We have that under consideration.

MR. BRAZIER: In the meantime we will just have to mark the passenger deficit down as being equal to X.

Q. Now, Mr. Cooper in his cross-examination of you yesterday asked you to define what you meant by "compensatory rates"?

A. Yes.

Q. Do you remember that question?

A. I think I do.

Q. I wonder if you would -- I think this







definition of terms becomes rather important ---

MR. SINCLAIR: It is at page 1545 of  
Volume 12.

THE WITNESS: Yes, I have that here, Mr.  
Brazier.

MR. BRAZIER: Q. Your answer, starting  
at the top of page 1545, says:

"A compensatory rate is one that pro-  
vides not only the cost, the variable cost  
of handling it, but also its proportion of  
the constant cost; in other words, that it  
returns its total cost."

A. Yes.

Q. Now, you continue in that sentence  
to use the word "cost"?

A. That is right.

Q. And I presume you as Vice-President  
of Traffic must have cost figures before you in  
order to determine whether or not a rate is com-  
pensatory?

A. Well, we have several bench marks  
that we look upon. There is the per car mile, per  
ton mile earnings, the kind of traffic it is, the  
weight it is loaded and we do have some general  
figures as to costs on an overall basis. When  
you find a rate that on those costs appears to be  
marginal or close then you get a further cost  
study done, a specific cost study, on the traffic  
you are handling.

Q. Am I correct in suggesting that you





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(Brazier)

do not in any case have specific, or very seldom do you have, specific costs before you and you measure it on a system of average cost basis?

A. We frequently have cost studies made for us on individual movements, oh, yes. Whenever it appears to us, from our examination of the other factors, that it may be marginal, if it is clearly above the bench marks that we have then there is no need of a cost study.

(Page 1836 follows)





Q. Give me those bench marks again?

A. Well, your revenue per ton-mile and car-mile, and the length of the haul.

Q. Those have nothing to do with costs?

A. They have to do with revenues, but the haul has something to do with costs -- the equipment. the average weights you may haul per car, and whether it is one way or whether there is an empty return haul of the car; if it is a one-way movement or a two-way movement. All those things you examine.

Q. And then what cost figures do you look at?

A. Then we have general cost figures taken out on an overall basis by our Department of Research.

Q. And those are costs of what, though?

A. They are costs of hauling the traffic for various distances at various weights and in various kinds of equipment.

Q. And those costs are based on a system average?

A. Well, I do not know what the Research Department take into them. That, of course, is something I do not know.

Q. They just give you the figures?

A. Yes, they give us these figures as an overall average. They would take, I would certainly believe, all of the proper costing techniques in arriving at them.

MR BRAZIER: Mr Reid is going to give evidence, is he not?







MR SINCLAIR: No, not on that.

MR BRAZIER: Will he not be able to answer those questions?

MR SINCLAIR: It depends on what they are.

MR BRAZIER: Q. But you have those cost figures -- you say you have them made quite frequently?

A. Well, they are made from period to period, and from time to time.

Q. And they are made available to you in your capacity as Vice-President of Traffic?

A. Not only to me, but to our officers whose duty it is to make freight rates.

Q. And I suppose the last responsibility now is yours, is it not, in that regard?

A. Well, I suppose it is to some extent, Mr Brazier.

Q. And you are guided by those cost figures that are supplied to you by the Research Department?

A. Yes, when we think it looks marginal, Mr Brazier, yes.

MR BRAZIER: Thank you.

THE ACTING CHAIRMAN: Are there any other counsel who wish to ask Mr Edsforth any questions?

MR HUME: Mr Chairman, I have one or two questions, but I understand the Commission would like to adjourn at this time.

THE ACTING CHAIRMAN: Mr Wood?

MR WOOD: I have just two questions.

THE ACTING CHAIRMAN: I think Mr Edsforth has had a hard day so I think we will adjourn at this time.





Mr Sinclair, are you free to tell us who your next witness is.

MR SINCLAIR: Yes, I said last night our next witness is going to be Mr Reid who will deal with grants and the obligations arising out of the building of the Crow's Nest line.

THE ACTING CHAIRMAN: Very well; we will adjourn until ten o'clock tomorrow morning.

--- Whereupon the hearing adjourned at 4.55 p.m.  
to resume at 10.00 a.m. Wednesday, December 9, 1959.













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